

# **EXHIBIT A**

# 10-25-23\_0923

## Designation List Report



**Rust, Marcus**

**2014-03-05**

Plaintiff Designations	00:31:09
Defense Counters	00:02:16
Plaintiff Reply to Counters	00:01:37
<b>TOTAL RUN TIME</b>	<b>00:35:03</b>



Documents linked to video:

213  
402  
404  
574  
710  
727  
827  
828



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DESIGNATION	SOURCE	DURATION	ID
11:20 - 12:02	<b>Rust, Marcus 2014-03-05</b> 11:20 Now, you understand that you've 11:21 been identified by Rose Acre as a corporate 11:22 representative to testify concerning a number of 12:01 topics; is that correct? 12:02 A. Yes.	00:00:11	Rust_03-05-14.1
15:19 - 17:05	<b>Rust, Marcus 2014-03-05</b> 15:19 Q. All right. And as I understand it 15:20 today Rose Acre has approximately 24 million 15:21 laying hens; is that correct? 15:22 A. Not quite that many. 16:01 Q. All right. Give or take what? 16:02 A. 22 to 23. 16:03 Q. 22 to 23 million laying hens? 16:04 A. Yes. 16:05 Q. And as I understand it, it's the 16:06 second largest shell egg producer in the United 16:07 States; correct? 16:08 A. No. 16:09 Q. It's not? 16:10 A. No. 16:11 Q. Where does it rank? 16:12 A. We're probably -- depends on how 16:13 you rank. I would say number three today. 16:14 Q. Okay. Has it been ranked number 16:15 two before? 16:16 A. It has in the past. 16:17 Q. Okay. So somewhere in either 16:18 number two or number three ranking; is that 16:19 correct? 16:20 A. Correct. 16:21 Q. Would that be true for the last at 16:22 least since 2000? 17:01 A. Repeat the question. 17:02 Q. Would it be true that Rose Acre 17:03 would be either the second or third largest 17:04 shell egg producer since 2000? 17:05 A. Yes.	00:01:15	Rust_03-05-14.2
47:16 - 50:09	<b>Rust, Marcus 2014-03-05</b> 47:16 Q. What about John?	00:02:30	Rust_03-05-14.3

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DESIGNATION	SOURCE	DURATION	ID
47:17	A. He's my brother.		
47:18	Q. All right. What role does he have		
47:19	with the company?		
47:20	A. He does farm reports. He goes		
47:21	through and does a family photograph of the		
47:22	farms, just type up the report that he gives my		
48:01	mother and myself a copy of.		
48:02	Q. What is the farm report again?		
48:03	A. Just general operating report of		
48:04	the farm.		
48:05	Q. Does he tour all the locations?		
48:06	A. Yeah.		
48:07	Q. How long has he been doing that?		
48:08	A. I don't recall. Quite a while.		
48:09	Q. At least 10 years?		
48:10	A. I don't recall exactly when he		
48:11	started.		
48:12	Q. So for several years?		
48:13	A. Yeah.		
48:14	Q. All right. And how frequently		
48:15	will he prepare the report?		
48:16	A. I think they are quarterly.		
48:17	Q. Okay.		
48:18	A. Maybe biannual.		
48:19	Q. What would he report on?		
48:20	A. Just general condition of the		
48:21	farm.		
48:22	Q. Did he have a form for his report		
49:01	that he fills out?		
49:02	A. No.		
49:03	Q. How many pages would it be?		
49:04	A. Five, ten, maybe.		
49:05	Q. Who would get those besides you		
49:06	and your mom?		
49:07	A. I'm not sure.		
49:08	Q. Is he continuing to prepare those		
49:09	for you and your mom?		
49:10	A. Yes.		
49:11	Q. How old is your brother, John?		
49:12	A. Forty something.		
49:13	Q. A younger brother?		

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DESIGNATION	SOURCE	DURATION	ID
	49:14 A. Yeah. He's the second youngest.		
	49:15 I'm not sure what year he was born.		
	49:16 Q. Does he have any other		
	49:17 responsibility other than preparing these		
	49:18 reports about the various facilities?		
	49:19 A. He does the egg carton design		
	49:20 work.		
	49:21 Q. How long has he done that?		
	49:22 A. 20 years.		
	50:01 Q. Okay. Any other responsibilities?		
	50:02 A. He signs the checks, opens the		
	50:03 mail.		
	50:04 Q. So he has check writing authority?		
	50:05 A. He has check signing authority.		
	50:06 Q. Check signing authority?		
	50:07 A. Yes.		
	50:08 Q. Does he still do?		
	50:09 A. Yes.		
82:02 - 82:05	<b>Rust, Marcus 2014-03-05</b>	00:00:14	Rust_03-05-14.4
 727.1.1	82:02 Q. I'm going to show you what has		
	82:03 been marked as Exhibit 518. And you'll note at		
	82:04 the bottom of the page, it's RA that's for Rose		
	82:05 Acre 33885 through 891; correct?		
82:06 - 82:13	<b>Rust, Marcus 2014-03-05</b>	00:00:13	Rust_03-05-14.5
 727.1	82:06 A. Yes.		
	82:07 Q. Did you review this document in		
	82:08 preparation for your deposition yesterday?		
	82:09 A. Could have. I saw lots of		
	82:10 documents.		
	82:11 Q. All right. Are you familiar with		
	82:12 this document?		
	82:13 A. Generally.		
105:09 - 106:13	<b>Rust, Marcus 2014-03-05</b>	00:01:09	Rust_03-05-14.6
 727.2.1	105:09 Q. Now, if you would, over on 889 --		
	105:10 actually, if you could go back on 886, it says,		
	105:11 under -- back up there under Rose Acre business		
	105:12 milestones, it says, today we have 15 farms in		
	105:13 six states with a capacity of over 22 million		
	105:14 birds and an annual production of close to 61		
	105:15 billion eggs. Do you see that?		

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DESIGNATION	SOURCE	DURATION	ID
	105:16 A. Yes.		
	105:17 Q. Is that also consistent with your		
	105:18 recollection you had approximately 22 million		
	105:19 birds in '05?		
	105:20 A. Yeah. It could be plus a farm or		
	105:21 minus a farm. It could be plus or minus a few		
	105:22 birds.		
 727.5	106:01 Q. Over here on 889 at the top of the		
	106:02 page under market presence, you see that, the		
	106:03 last three digits 889?		
	106:04 A. 889?		
	106:05 Q. The bottom of the page down here,		
	106:06 it says 889, last three digits?		
	106:07 A. Yes.		
 727.5.1	106:08 Q. Up at the top, it says, under		
	106:09 market presence, overall we have about 8 percent		
	106:10 share of the shell egg market and we are the		
	106:11 second largest egg producer in the nation; do		
	106:12 you see that?		
	106:13 A. Yes.		
106:14 - 106:16	<b>Rust, Marcus 2014-03-05</b>	00:00:04	Rust_03-05-14.7
	106:14 Q. That would be consistent with your		
	106:15 recollection; fair enough?		
	106:16 A. At that time probably.		
109:03 - 109:09	<b>Rust, Marcus 2014-03-05</b>	00:00:17	Rust_03-05-14.8
 727.5.2	109:03 Q. Now, it says here under where Rose		
	109:04 Acre products -- it says, we supply eggs across		
	109:05 the country from Maine to California. Our		
	109:06 largest penetration is in the Midwest with the		
	109:07 south as our second largest market. Was that		
	109:08 accurate in 2005?		
 Clear	109:09 A. Yes.		
185:13 - 185:16	<b>Rust, Marcus 2014-03-05</b>	00:00:16	Rust_03-05-14.9
	185:13 Q. Now, you understood before you		
	185:14 joined UEP that they were engaged in coordinated		
	185:15 activities that restricted the supply of eggs to		
	185:16 boost prices; correct?		
185:19 - 185:21	<b>Rust, Marcus 2014-03-05</b>	00:00:03	Rust_03-05-14.10
	185:19 THE WITNESS: Repeat your		

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DESIGNATION	SOURCE	DURATION	ID
	185:20 question.		
	185:21 MR. STUEVE: Read it back.		
185:22 - 186:12	<b>Rust, Marcus 2014-03-05</b>	00:00:31	Rust_03-05-14.11
	185:22 (The record was read as		
	186:01 requested.)		
	186:02 THE WITNESS: Because we were not		
	186:03 members, I have no idea what they engaged in.		
	186:04 We only had what they suspected and heard that		
	186:05 they did.		
	186:06 BY MR. STUEVE:		
	186:07 Q. And one of the suspicions is that		
	186:08 they were coordinating egg producers to restrict		
	186:09 the supply of eggs?		
	186:10 A. If you got sued three times, would		
	186:11 you think that they were coordinating against		
	186:12 you?		
186:21 - 187:09	<b>Rust, Marcus 2014-03-05</b>	00:00:35	Rust_03-05-14.12
	186:21 Q. Is one of the things that you were		
	186:22 suspicious of, prior to joining UEP, is that UEP		
	187:01 was coordinating egg producers to restrict the		
	187:02 supply of eggs to boost prices?		
	187:03 A. We were suspicious.		
	187:04 Q. And another thing that you were		
	187:05 suspicious of is that in fact they were using		
	187:06 the animal welfare or certified program as a way		
	187:07 to reduce the supply of eggs and boost prices;		
	187:08 correct, sir?		
	187:09 A. No.		
187:12 - 187:17	<b>Rust, Marcus 2014-03-05</b>	00:00:06	Rust_03-05-14.13
	187:12 Q. You didn't have that suspicion,		
	187:13 sir?		
	187:14 A. I didn't have that suspicion of		
	187:15 that program.		
	187:16 Q. No one at Rose Acre had that		
	187:17 suspicion?		
187:19 - 188:11	<b>Rust, Marcus 2014-03-05</b>	00:00:24	Rust_03-05-14.14
	187:19 THE WITNESS: No.		
	187:20 BY MR. STUEVE:		
	187:21 Q. You were aware or certainly had		

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DESIGNATION	SOURCE	DURATION	ID
	187:22 suspicions?		
	188:01 A. Let me restate. There was family		
	188:02 members that were very suspicious of the whole		
	188:03 thing, but --		
	188:04 Q. And the reason why they were		
	188:05 suspicious is that they believed it was --		
	188:06 A. Of what had happened to us in the		
	188:07 past.		
	188:08 Q. They believed that under the guise		
	188:09 or the pretense of animal welfare, they were		
	188:10 restricting the supply of eggs to boost prices;		
	188:11 correct, sir?		
188:13 - 188:15	<b>Rust, Marcus 2014-03-05</b>	00:00:05	Rust_03-05-14.15
	188:13 THE WITNESS: You have to repeat		
	188:14 your question.		
	188:15 MR. STUEVE: Can you read it back?		
188:16 - 188:17	<b>Rust, Marcus 2014-03-05</b>	00:00:10	Rust_03-05-14.16
	188:16 (The record was read as		
	188:17 requested.)		
188:19 - 189:04	<b>Rust, Marcus 2014-03-05</b>	00:00:25	Rust_03-05-14.17
	188:19 THE WITNESS: Repeat it, please.		
	188:20 (The record was read as		
	188:21 requested.)		
	188:22 THE WITNESS: Who is they?		
	189:01 BY MR. STUEVE:		
	189:02 Q. Some of your family members were		
	189:03 suspicious of that?		
	189:04 A. Yes.		
202:20 - 203:12	<b>Rust, Marcus 2014-03-05</b>	00:00:34	Rust_03-05-14.18
	202:20 Q. Now, when Rose Acre joined the UEP		
	202:21 in 2002, it immediately had several of its		
	202:22 members participating in various committees, as		
	203:01 well as the Board; correct?		
	203:02 A. Correct.		
	203:03 Q. And that was true up until today;		
	203:04 correct, sir?		
	203:05 A. Correct.		
	203:06 Q. You have been a Board member since		
	203:07 2002; right?		



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DESIGNATION	SOURCE	DURATION	ID
	203:08 A. Yes.		
	203:09 Q. All right. And there's been		
	203:10 several members of your folks that have been on		
	203:11 these various committees throughout; right?		
	203:12 A. Correct.		
204:08 - 205:03	<b>Rust, Marcus 2014-03-05</b>	00:00:23	Rust_03-05-14.19
	204:08 Q. In 2002, that's the year you		
	204:09 joined; right?		
	204:10 A. Correct.		
	204:11 Q. You would have been a member of		
	204:12 the Board; right?		
	204:13 A. Correct.		
	204:14 Q. KY Hendrix would have been a		
	204:15 member of the producer committee for animal		
	204:16 welfare?		
	204:17 A. Correct.		
	204:18 Q. Greg Hinton would have been on		
	204:19 the marketing and price discovery committee,		
	204:20 correct?		
	204:21 A. Right.		
	204:22 Q. And Carol Hale would have been on		
	205:01 the environmental scientific committee, is that		
	205:02 right?		
	205:03 A. Correct.		
206:02 - 206:10	<b>Rust, Marcus 2014-03-05</b>	00:00:11	Rust_03-05-14.20
	206:02 Q. Then if you would, in 2003, that		
	206:03 would have been the second year you had been an		
	206:04 UEP member, you would have been a member of the		
	206:05 Board; correct?		
	206:06 A. Yes.		
	206:07 Q. KY Hendrix would have been a		
	206:08 member of the producer committee for animal		
	206:09 welfare?		
	206:10 A. Right.		
206:11 - 207:15	<b>Rust, Marcus 2014-03-05</b>	00:00:44	Rust_03-05-14.21
	206:11 Q. Greg Hinton would have been		
	206:12 marketing and price discovery committee; is that		
	206:13 right?		
	206:14 A. Right.		
	206:15 Q. And Carol Hale again for		

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DESIGNATION	SOURCE	DURATION	ID
	206:16 environmental scientific committee?		
	206:17 A. Yes.		
	206:18 Q. And then in 2004, the third year,		
	206:19 you would have been a member of the Board, a		
	206:20 member of the government relations committee,		
	206:21 spent hen committee, and public relations		
	206:22 committee; is that correct?		
	207:01 A. That's what it says. Yes.		
	207:02 Q. Is that consistent with your		
	207:03 recollection?		
	207:04 A. Vaguely.		
	207:05 Q. KY Hendrix would have been		
	207:06 producer committee for animal welfare; right?		
	207:07 A. Yes.		
	207:08 Q. Greg Hinton would have still been		
	207:09 on the marketing and price discovery committee,		
	207:10 correct?		
	207:11 A. Correct.		
	207:12 Q. Carol Hale would have been		
	207:13 environmental scientific committee?		
	207:14 A. I have no reason to dispute any of		
	207:15 these.		
207:19 - 208:16	<b>Rust, Marcus 2014-03-05</b>	00:00:32	Rust_03-05-14.22
	207:19 .... But in 2005, you would have still been on		
	207:20 the Board; right?		
	207:21 A. Yeah.		
	207:22 Q. Government relation committee, the		
	208:01 spent hen committee, and the public relations		
	208:02 committee; right?		
	208:03 A. Could have been.		
	208:04 Q. KY Hendrix would have been on the		
	208:05 producer committee for animal welfare; right?		
	208:06 A. I would assume.		
	208:07 Q. And then Greg Hinton would have		
	208:08 still been on the marketing and price discovery		
	208:09 committee?		
	208:10 A. I think.		
	208:11 Q. And then Carol Hale, environmental		
	208:12 scientific committee; is that right?		
	208:13 A. As far as I know.		

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DESIGNATION	SOURCE	DURATION	ID
	208:14 Q. And then Chip Everhart, 208:15 environmental committee, see that in '05? 208:16 A. Yes.		
209:03 - 209:18	<b>Rust, Marcus 2014-03-05</b>  209:03 Q. Okay. And then '06, we've got 209:04 you again on the Board of Directors, and then in 209:05 '06, you joined USEM; correct, Rose Acre did? 209:06 A. About then. Yeah. 209:07 Q. And you would have become a USEM 209:08 Board of Director; right? 209:09 A. Correct. 209:10 Q. And then you were on the marketing 209:11 committee, price discovery committee, spent hen 209:12 committee and public relations committee; 209:13 correct? 209:14 A. If that's what it says. 209:15 Q. Is that consistent with your 209:16 recollection? 209:17 A. I don't recollect what committees 209:18 I was on or not on. It's been too many years.	00:00:32	Rust_03-05-14.23
213:17 - 213:19	<b>Rust, Marcus 2014-03-05</b>  213:17 Q. All right. Now, so going on with 213:18 respect to 2006, we've got KY Hendrix, the 213:19 producer committee for animal welfare....	00:00:11	Rust_03-05-14.24
214:21 - 215:02	<b>Rust, Marcus 2014-03-05</b>  214:21 A. Yes. 214:22 Q. And that's consistent with the 215:01 interrogatory answer given by Rose Acre; right? 215:02 A. I think so.	00:00:08	Rust_03-05-14.25
215:07 - 215:10	<b>Rust, Marcus 2014-03-05</b>  215:07 Q. It says for Greg Hinton, UEP 215:08 marketing and price discovery committee, 2002 to 215:09 approximately 2006; right? 215:10 A. That's what it says.	00:00:08	Rust_03-05-14.26
219:11 - 219:14	<b>Rust, Marcus 2014-03-05</b>  219:11 Q. It lists Joe Miller there, who is 219:12 your in-house counsel under the government 219:13 relations; correct, sir? 219:14 A. Yes.	00:00:10	Rust_03-05-14.27





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DESIGNATION	SOURCE	DURATION	ID
219:19 - 222:01	<b>Rust, Marcus 2014-03-05</b>	00:01:59	Rust_03-05-14.28
219:19	Q. .... If we just continue on		
219:20	down, '07, '08, '09, 2010, 2011, 2012, and 2013,		
219:21	it continues to reflect that you and other		
219:22	members of Rose Acre were on several of the		
220:01	committees of UEP; correct, sir?		
220:02	A. We were actively involved in		
220:03	several of the things. Yes.		
220:04	Q. And are you aware of any other egg		
220:05	producer that had the level of involvement that		
220:06	you had with UEP, USEM. That Rose Acre had?		
220:07	A. Prior to our joining, we told them		
220:08	we had to be very involved or we weren't going		
220:09	to be involved.		
220:10	Q. And in fact, you made sure for		
220:11	example you were on the producer committee for		
220:12	animal welfare which would have been the		
220:13	committee responsible for the UEP certified		
220:14	program; right?		
220:15	A. Correct.		
220:16	Q. You made sure that you were on the		
220:17	marketing and price discovery committee; right?		
220:18	A. Yes.		
220:19	Q. And that would have been the		
220:20	committee that would have recommended the early		
220:21	moult and early kills; correct?		
220:22	A. Yes.		
221:01	Q. And you made sure that when you		
221:02	joined USEM, that you were on the USEM Board,		
221:03	and that was the group that determined when and		
221:04	what amount the exports would occur; correct,		
221:05	sir?		
221:06	A. We never joined US Egg Marketers		
221:07	until several years after.		
221:08	Q. You joined them in '06; right?		
221:09	A. Whatever the documents show. I		
221:10	don't recall the exact years.		
221:11	Q. We just looked at interrogatory --		
221:12	A. That's what it says. Yes.		
221:13	Q. That's Rose Acre's interrogatory		
221:14	in '06. In fact, when you joined, you were an		

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DESIGNATION	SOURCE	DURATION	ID
	221:15 active participate of USEM; right?		
	221:16 A. Yes.		
	221:17 Q. And in fact, participated in the		
	221:18 exports that were organized by USEM; correct,		
	221:19 sir?		
	221:20 A. At that time.		
	221:21 Q. And you remained on the USEM Board		
	221:22 up to today; correct, sir?		
	222:01 A. Correct.		
265:18 - 266:20	<b>Rust, Marcus 2014-03-05</b>	00:01:12	Rust_03-05-14.29
 402.1.1	265:18 Q. Yes. And now we're looking at		
	265:19 Exhibit 528. That's May of 2004, and at the		
	265:20 marketing committee, the marketing committee		
 402.2.1	265:21 approved by the Board was making another supply		
	265:22 adjustment recommendation; correct, sir?		
	266:01 A. That's what this -- the motion --		
	266:02 that's what I'm reading it says here. That's		
	266:03 what it says.		
	266:04 Q. This was approved by the Board;		
	266:05 right?		
	266:06 A. By the ones that voted for it.		
	266:07 Q. And it says, it was moved by Baker		
	266:08 and seconded by Fortin to recommend that the		
	266:09 industry moult all flocks at 62 weeks and		
	266:10 dispose of spent hens by 108 weeks, and that		
	266:11 this plan of action take place immediately and		
	266:12 carry through until August 1, 2004?		
	266:13 A. That's what it reads and says		
	266:14 here.		
	266:15 Q. And you understood as a member of		
	266:16 the Board that the purpose of this supply		
	266:17 adjustment plan was to reduce the supply of eggs		
	266:18 with the hope of boosting prices; correct, sir?		
	266:19 A. I can't say that I understood that		
	266:20 part of it.		
266:21 - 267:01	<b>Rust, Marcus 2014-03-05</b>	00:00:06	Rust_03-05-14.30
 827.1.1	266:21 Q. Show you what's been marked as		
	266:22 Exhibit 215?		
	267:01 A. Okay.		
267:08 - 268:07	<b>Rust, Marcus 2014-03-05</b>	00:01:12	Rust_03-05-14.31

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DESIGNATION	SOURCE	DURATION	ID
	267:08 BY MR. STUEVE:		Rust_03-05-14.31
	267:09 Q. Sir, these are shell egg marketing		
	267:10 committee minutes of August 20, 2004; correct?		
	267:11 A. It looks that way.		
 827.1.2	267:12 Q. And Mr. Hinton is listed as a		
	267:13 committee member; correct?		
	267:14 A. I'm not seeing his name.		
	267:15 Q. Under the committee and staff,		
	267:16 third line down, right in the middle?		
	267:17 A. Yep.		
	267:18 Q. And he was a member of that		
	267:19 committee in 2004; right?		
	267:20 A. Yes.		
 827.2	267:21 Q. And if you would, over on		
	267:22 recommendations to the Board, on the second		
 827.2.1	268:01 page, it was moved by Wicker and seconded by		
	268:02 Schimpf to recommend to the Board a plan for		
	268:03 hens currently scheduled for disposal between		
	268:04 December 2004 and July 1, 2005, to be disposed		
	268:05 of 4 weeks early or reduce your flock size by		
	268:06 5 percent; right?		
	268:07 A. That's what it says there.		
269:01 - 269:20	<b>Rust, Marcus 2014-03-05</b>	00:00:49	Rust_03-05-14.32
	269:01 Q. Recommendations to the Board.		
	269:02 Motion. It was moved by Wicker and seconded by		
	269:03 Schimpf to recommend to the Board a plan of hens		
	269:04 currently scheduled for disposal between		
	269:05 December 1, 2004, and July 1, 2005 to be		
	269:06 disposed of 4 weeks early or reduce your flock		
	269:07 size by 5 percent. Do you see that?		
	269:08 A. That's what it says.		
	269:09 Q. It says carried, right?		
	269:10 A. It says carried.		
	269:11 Q. And there is no indication here		
	269:12 that Mr. Hinton objected to it, right?		
	269:13 A. Or voted for it. It doesn't say		
 Clear	269:14 one way of the other.		
	269:15 Q. And, sir, the purpose of this,		
	269:16 like the other supply action plans we've looked		
	269:17 at that were recommended by the marketing		

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DESIGNATION	SOURCE	DURATION	ID
	269:18 committee and approved by the Board was to 269:19 reduce the supply of eggs to boost egg prices; 269:20 correct?		
269:22 - 270:16	<b>Rust, Marcus 2014-03-05</b>  269:22 THE WITNESS: I have no idea what 270:01 they was -- what their personal -- what 270:02 everyone's feelings was on it. 270:03 BY MR. STUEVE: 270:04 Q. Well, surely if you reduce the 270:05 flock size by 5 percent, if all egg producer -- 270:06 A. It depends on how old your 270:07 chickens were. 270:08 Q. If they reduced the flock size by 270:09 5 percent and enough egg producers did that, 270:10 that would reduce the supply of eggs and boost 270:11 egg prices; correct, sir? 270:12 A. Depends on if they put new ones 270:13 back in or not. 270:14 Q. But the purpose of this was to 270:15 hope to reduce the supply of eggs and boost egg 270:16 prices; right?	00:00:37	Rust_03-05-14.33
270:18 - 271:01	<b>Rust, Marcus 2014-03-05</b>  270:18 THE WITNESS: I wasn't at that 270:19 meeting. 270:20 BY MR. STUEVE: 270:21 Q. Mr. Hinton was, Rose Acre; right? 270:22 A. Yeah. I assume that. It's listed 271:01 that he was there.	00:00:11	Rust_03-05-14.34
271:02 - 271:03  828.1.1	<b>Rust, Marcus 2014-03-05</b>  271:02 Q. Show you what's been marked as 271:03 Exhibit 139.	00:00:03	Rust_03-05-14.35
275:07 - 276:09   828.2	<b>Rust, Marcus 2014-03-05</b>  275:07 Q. And let's look at yet another 275:08 example of the supply management action plans 275:09 here. It's on 104. If you look on 103 at the 275:10 bottom of the page, this is the marketing 275:11 committee report? 275:12 A. What page are you on? 275:13 Q. At the bottom of 103, so it's the	00:01:18	Rust_03-05-14.36

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DESIGNATION	SOURCE	DURATION	ID
 828.2.1	<p>275:14 second page. If you look at the Bates range at</p> <p>275:15 the bottom, 103?</p> <p>275:16 A. Yeah.</p> <p>275:17 Q. And it's a marketing committee</p> <p>275:18 report. Do you see that? And then over on the</p> <p>275:19 next page, the top of 104, it says, second</p> <p>275:20 motion, it was moved by Mooney and seconded by</p> <p>275:21 Dean to recommend that the current intentions</p> <p>275:22 program for flocks to be disposed of 4 weeks</p> <p>276:01 earlier than previously scheduled and/or flock</p> <p>276:02 size reduction by 5 percent be extended through</p> <p>276:03 Labor Day. Carried. Did I read that correctly?</p> <p>276:04 A. That's what you read correctly,</p> <p>276:05 yeah.</p> <p>276:06 Q. This is another example of a</p> <p>276:07 supply management action plan that was intended</p> <p>276:08 to reduce the supply of eggs and boost prices;</p> <p>276:09 correct, sir?</p>		
276:11 - 277:01	<p><b>Rust, Marcus 2014-03-05</b></p> <p>276:11 THE WITNESS: Not the way we</p> <p>276:12 perceived it.</p> <p>276:13 BY MR. STUEVE:</p> <p>276:14 Q. But that was the purpose; right?</p> <p>276:15 A. I can't say what the purpose was.</p> <p>276:16 I reiterate our purpose, we -- when we joined</p> <p>276:17 UEP, we never participated in any supply</p> <p>276:18 agreements, nor voted for them.</p> <p>276:19 Q. And this -- you would agree,</p> <p>276:20 whether you voted for it or not, that this --</p> <p>276:21 A. I agree with what it says here.</p> <p>276:22 Q. And that is an attempt to restrict</p> <p>277:01 the supply of eggs; is it not, sir?</p>	00:00:35	Rust_03-05-14.37
277:03 - 277:07	<p><b>Rust, Marcus 2014-03-05</b></p> <p>277:03 MR. STUEVE: Go ahead and answer,</p> <p>277:04 sir.</p> <p>277:05 THE WITNESS: Repeat the question.</p> <p>277:06 (The record was read as</p> <p>277:07 requested.)</p>	00:00:13	Rust_03-05-14.38
277:09 - 277:18	<p><b>Rust, Marcus 2014-03-05</b></p> <p>277:09 MR. BARNES: Did he answer that?</p>	00:00:34	Rust_03-05-14.39



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DESIGNATION	SOURCE	DURATION	ID
	277:10 Do you have an answer or not?		
	277:11 THE REPORTER: I did not have an		
	277:12 answer.		
	277:13 MR. STUEVE: Go ahead and answer,		
	277:14 sir.		
	277:15 THE WITNESS: Repeat the question		
	277:16 again.		
	277:17 (The record was read as		
	277:18 requested.)		
277:19 - 278:06	<b>Rust, Marcus 2014-03-05</b>	00:00:19	Rust_03-05-14.40
	277:19 THE WITNESS: I don't know if it		
	277:20 would be or not. It may be -- it may be		
	277:21 considered that way. I don't know.		
	277:22 BY MR. STUEVE:		
	278:01 Q. And the motion carried; right?		
	278:02 A. That's what it says.		
	278:03 Q. And Mr. Hinton would have been on		
	278:04 that committee at that time; correct?		
	278:05 A. He would have been on the		
	278:06 committee that evidently recommended the motion.		
281:13 - 281:14	<b>Rust, Marcus 2014-03-05</b>	00:00:04	Rust_03-05-14.41
 710.1.2	281:13 Q. Now, let me show you what's been		
	281:14 marked as Exhibit 117. And this is Egg Industry		
281:15 - 282:13	<b>Rust, Marcus 2014-03-05</b>	00:01:03	Rust_03-05-14.42
	281:15 Economic Alert; right?		
	281:16 A. Yes.		
	281:17 Q. It has just the facts; right?		
	281:18 A. That's what it says.		
	281:19 Q. Good news, the bad news, and then		
	281:20 possible solutions as suggested by the marketing		
	281:21 committee?		
	281:22 A. Yes.		
	282:01 Q. In which you were in attendance;		
	282:02 right? We just looked at Exhibit 111?		
	282:03 A. Yes. I was in attendance.		
 710.1.1	282:04 Q. And in the solutions suggested by		
	282:05 the marketing committee was dispose of spent		
	282:06 hens 4 weeks earlier than previously scheduled		
	282:07 and/or reduce your flock size by 5 percent		
	282:08 through Labor Day; right? That's one of them?		

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DESIGNATION	SOURCE	DURATION	ID
	282:09 A. That's one of them.		
	282:10 Q. If that, in fact, were followed by		
	282:11 members of the egg industry, the hope and intent		
	282:12 was that would reduce the supply of eggs and		
	282:13 reduce prices; right, sir?		
282:15 - 284:18	<b>Rust, Marcus 2014-03-05</b>	00:02:12	Rust_03-05-14.43
	282:15 THE WITNESS: If you'll read it,		
	282:16 it says, it is in your best economic interest to		
	282:17 do so, the potential crisis can't be avoided by		
	282:18 -- they underline it, it says, it is in your		
	282:19 best economic interest to do so, the potential		
	282:20 crisis can't be avoided by your action. They		
	282:21 asked for voluntary action for people to do		
	282:22 stuff.		
	283:01 BY MR. STUEVE:		
	283:02 Q. But in order for it to be in their		
	283:03 best economic interest, the action plan was for		
	283:04 folks to dispose of spent hens 4 weeks earlier		
	283:05 than previously scheduled and/or reduce your		
	283:06 flock size by 5 percent through Labor Day in an		
	283:07 effort to reduce the supply of eggs and boost		
	283:08 egg prices; correct, sir?		
	283:09 A. It says possible solutions as		
	283:10 suggested.		
	283:11 Q. And the solution that would be in		
	283:12 the economic interest of the members would be		
	283:13 for members to dispose of spent hens 4 weeks		
	283:14 earlier than previously scheduled and/or reduce		
	283:15 flock size by 5 percent through Labor Day to		
	283:16 reduce the supply of eggs and increase prices;		
	283:17 correct, sir?		
	283:18 A. That's what it says.		
	283:19 Q. And the second bullet point is to		
	283:20 delay the hatch of all flocks, leave houses		
	283:21 empty for a period of time?		
	283:22 A. I don't know how you delay the		
	284:01 hatch of flocks. Once they're put in the		
	284:02 incubator, unless you kill them, you can't delay		
	284:03 the hatch.		
	284:04 Q. Right. And so that's the only way		

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DESIGNATION	SOURCE	DURATION	ID
	284:05 they could have done it, was to kill them;		
	284:06 right?		
	284:07 A. This is a list of suggestions and		
	284:08 possible solutions that they sent out to the		
	284:09 members, it looks like.		
	284:10 Q. But if they did delay the hatch of		
	284:11 all flocks, right, that would reduce the supply		
	284:12 of laying hens, right, that would reduce the		
	284:13 supply of eggs -- hold on, let me finish --		
	284:14 reduce the supply of eggs with the hope of		
	284:15 boosting egg prices; correct?		
	284:16 A. I have no idea.		
	284:17 Q. But that's what was intended		
	284:18 there; right?		
284:20 - 284:20	<b>Rust, Marcus 2014-03-05</b>	00:00:02	Rust_03-05-14.44
	284:20 THE WITNESS: It was a suggestion.		
333:04 - 333:06	<b>Rust, Marcus 2014-03-05</b>	00:00:13	Rust_03-05-14.45
 404.1.1	333:04 Q. Show you what's been marked		
	333:05 Exhibit 534, it's Bates ranged RAUPDATE 0071497		
	333:06 through 519.		
333:07 - 334:03	<b>Rust, Marcus 2014-03-05</b>	00:00:54	Rust_03-05-14.46
	333:07 Sir, can you identify what		
	333:08 Exhibit 534 is?		
	333:09 A. It's an animal husbandry		
	333:10 guideline.		
	333:11 Q. Are you familiar with it, sir?		
	333:12 A. Somewhat.		
	333:13 Q. When's the first time you saw the		
	333:14 guidelines?		
	333:15 A. Maybe when it was passed out. I		
	333:16 don't remember.		
	333:17 Q. We've seen you joined in		
	333:18 February 2002; right?		
	333:19 A. Yes.		
	333:20 Q. That was right when the guidelines		
	333:21 were beginning to roll out; right?		
	333:22 A. Yes.		
	334:01 Q. All right. And so you both at the		
	334:02 same time you became a UEP member, did you also		
	334:03 sign up with the UEP certified program?		

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DESIGNATION	SOURCE	DURATION	ID
334:06 - 337:13	<b>Rust, Marcus 2014-03-05</b>	00:03:05	Rust_03-05-14.47
	334:06 THE WITNESS: I think we did.		
	334:07 Sometime in that time period.		
	334:08 BY MR. STUEVE:		
	334:09 Q. Okay.		
	334:10 A. We had to wait until we met		
	334:11 different guidelines to be able to be into the		
	334:12 program, I remember.		
	334:13 Q. Okay. That's why I was asking		
	334:14 that question.		
	334:15 What were some of the guidelines		
	334:16 that you had to wait before you could be UEP		
	334:17 certified?		
	334:18 A. I think we had to have some square		
	334:19 inch rules that we had to meet and I'm trying to		
	334:20 remember. I don't remember which ones we were		
	334:21 so-called out on. There were several, but --		
	334:22 Q. Was this from an initial		
	335:01 inspection?		
	335:02 A. From my memory, yeah.		
	335:03 Q. When you're talking about square		
	335:04 inch requirements, what you're talking about is		
	335:05 in order to be certified you had to remove birds		
	335:06 from your existing cages; correct, sir?		
	335:07 A. I don't know if we removed. We		
	335:08 had to have -- you had to have an average of so		
	335:09 many birds for so many square inches to qualify		
	335:10 to be in the program.		
	335:11 Q. In fact, it reduced your flock by		
	335:12 25 to 30 percent; did it not, sir?		
	335:13 A. Over a period from the time we		
	335:14 started the program until the time the reduction		
	335:15 took place, that was the schedule that we added		
	335:16 capacity over the time period to make sure we		
	335:17 didn't get behind.		
	335:18 Q. Sir, from your existing cages, you		
	335:19 actually reduced your flock by 25 to 30 percent;		
	335:20 correct?		
	335:21 A. From an existing cage 120 by		
	335:22 24-inch we would have reduced the space, but we		

 Clear

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DESIGNATION	SOURCE	DURATION	ID
	336:01 added cages someplace else continually.		
	336:02 Q. We'll get to that. What I'm		
	336:03 asking you, though, is I've seen documents I'll		
	336:04 get them out if you need me to, that you had		
	336:05 reduced your flock size?		
	336:06 A. We reduced the flock size at		
	336:07 individual hen houses but we added to other hen		
	336:08 houses.		
	336:09 Q. Sir, let me ask my question.		
	336:10 My question is with respect to		
	336:11 your existing cages, you reduced your flock size		
	336:12 by 25 to 30 percent; did you not, sir?		
	336:13 A. What do you mean by flock size?		
	336:14 Q. I'll show you the document and		
	336:15 then I'll have you confirm it.		
	336:16 A. Okay. We have -- I refer to our		
	336:17 flock as having 22 million birds. We have		
	336:18 multiple farms with multiple different amounts		
	336:19 of chickens, different size cages. So our		
	336:20 reduction was only -- we may have one farm that		
	336:21 reduced and never added because we couldn't get		
	336:22 permits to build buildings there. We may have		
	337:01 other farms we added a million more chickens to		
	337:02 to make sure we never got behind on our egg		
	337:03 production.		
	337:04 Q. If you had not implemented the		
	337:05 cage space reduction requirements and also added		
	337:06 capacity through new construction, your flock		
	337:07 size would have been larger than 22 million;		
	337:08 correct, sir?		
	337:09 A. It would be 30 million or		
	337:10 40 million. I don't know what it would be. A		
	337:11 lot.		
	337:12 Q. A lot higher; right?		
	337:13 A. Yes.		
351:09 - 351:11	<b>Rust, Marcus 2014-03-05</b>	00:00:10	Rust_03-05-14.48
 213.1.2	351:09 Q. Let me show you what's been marked		
	351:10 as Exhibit 536. In third paragraph, if you		
	351:11 could review that for me, please?		
352:01 - 352:21	<b>Rust, Marcus 2014-03-05</b>	00:00:55	Rust_03-05-14.49

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DESIGNATION	SOURCE	DURATION	ID
 213.1.1	<p>352:01 Q. So this would have been in</p> <p>352:02 March 2002; right?</p> <p>352:03 A. That's what the date is, yes.</p> <p>352:04 Q. That was after you joined in</p> <p>352:05 February of 2002; right?</p> <p>352:06 A. It's about 2 weeks after.</p> <p>352:07 Q. And KY Hendrix, this is from him;</p> <p>352:08 right?</p> <p>352:09 A. Yeah.</p> <p>352:10 Q. He was the Rose Acre member who</p> <p>352:11 was serving on the producer committee for animal</p> <p>352:12 welfare; right?</p> <p>352:13 A. Right.</p> <p>352:14 Q. And the subject is UEP animal</p> <p>352:15 welfare guidelines and audits. Do you see that?</p> <p>352:16 A. Yep.</p>		Rust_03-05-14.49
 213.2	<p>352:17 Q. Over on the second page, it says,</p> <p>352:18 about halfway down that paragraph, it says, "I</p> <p>352:19 don't really know what this whole motive is but</p>		
 213.2.1	<p>352:20 I think there is more to it than animal</p> <p>352:21 welfare." Do you see that?</p>		
352:22 - 353:04	<p><b>Rust, Marcus 2014-03-05</b></p> <p>352:22 A. I'm not where you're at.</p> <p>353:01 Q. Over on the second page?</p> <p>353:02 A. I'm still reading.</p> <p>353:03 Q. Okay. When you get to it, let me</p> <p>353:04 know.</p>	00:00:13	Rust_03-05-14.50
353:05 - 353:15	<p><b>Rust, Marcus 2014-03-05</b></p> <p>353:05 A. Okay. What was the question</p> <p>353:06 again?</p> <p>353:07 Q. Do you see in there where KY</p> <p>353:08 Hendrix is saying, I don't really know what this</p> <p>353:09 whole motive is but I think there's more to it</p> <p>353:10 than animal welfare? Do you see that?</p> <p>353:11 A. Yes. We were suspicious of</p> <p>353:12 several things because of past experience.</p> <p>353:13 Q. I think some people think it will</p> <p>353:14 make them rich or something. Do you see that?</p> <p>353:15 A. Yes.</p>	00:00:26	Rust_03-05-14.51
353:16 - 353:19	<p><b>Rust, Marcus 2014-03-05</b></p>	00:00:14	Rust_03-05-14.52

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DESIGNATION	SOURCE	DURATION	ID
	353:16 Q. And that's consistent with his		Rust_03-05-14.52
	353:17 concept that by reducing the cage space, you		
	353:18 reduce flock size, therefore, egg supply, and		
	353:19 boost prices; correct, sir?		
354:03 - 354:17	<b>Rust, Marcus 2014-03-05</b>	00:00:40	Rust_03-05-14.53
	354:03 Q. Sir, you can answer my question.		
	354:04 A. Repeat your question.		
	354:05 MR. STUEVE: If you could read it		
	354:06 back.		
	354:07 (The record was read as		
	354:08 requested.)		
	354:09 THE WITNESS: Repeat it one more		
	354:10 time.		
	354:11 BY MR. STUEVE:		
	354:12 Q. Let me ask the question.		
	354:13 A. Maybe differently.		
	354:14 Q. There's a reference in here by KY		
	354:15 Hendrix that says, I think some people think it		
	354:16 may make them rich. Do you see that?		
	354:17 A. Yes.		
354:18 - 354:22	<b>Rust, Marcus 2014-03-05</b>	00:00:14	Rust_03-05-14.54
	354:18 Q. What he's referring to there is		
	354:19 the expectation that by reducing cage space and		
	354:20 thereby reducing the flock size, that it will		
	354:21 reduce the egg supply and boost prices; correct,		
	354:22 sir?		
355:02 - 355:10	<b>Rust, Marcus 2014-03-05</b>	00:00:21	Rust_03-05-14.55
	355:02 THE WITNESS: There were some		
	355:03 people who thought that any time you do		
	355:04 something that would reduce the supply is going		
	355:05 to make -- but what happens in a free market,		
	355:06 there's people like us who go out and build new		
	355:07 chicken houses all the time. We had competitors		
	355:08 building chicken houses all the time. What they		
	355:09 think and what took place are two different		
	355:10 things.		
355:11 - 356:07	<b>Rust, Marcus 2014-03-05</b>	00:00:40	Rust_03-05-14.56
	355:11 BY MR. STUEVE:		
	355:12 Q. Sir, that's not my question. My		

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DESIGNATION	SOURCE	DURATION	ID
	355:13 question is what he's referring to there --		
	355:14 A. I'm not sure what he was referring		
	355:15 to.		
	355:16 Q. We've already seen Don Bell --		
	355:17 A. I wasn't at the committee meetings		
	355:18 that he was.		
	355:19 Q. But what you understood when KY		
	355:20 was indicating is that I think some people think		
	355:21 it will make them rich. When you joined in		
	355:22 2002, you heard people talking about -- in fact		
	356:01 it is in UEP United Voices?		
	356:02 A. I never heard that. He did.		
	356:03 Q. He did. What he heard was people		
	356:04 thought they were going to get rich by reducing		
	356:05 the flock size through the cage space		
	356:06 requirements thereby reducing egg supply and		
	356:07 increasing prices; correct, sir?		
356:10 - 356:13	<b>Rust, Marcus 2014-03-05</b>	00:00:04	Rust_03-05-14.57
	356:10 BY MR. STUEVE:		
	356:11 Q. That's what he heard, right?		
	356:12 A. That's what he's saying that he		
	356:13 heard.		
364:07 - 366:19	<b>Rust, Marcus 2014-03-05</b>	00:02:24	Rust_03-05-14.58
 574.1.2	364:07 Q. Let me show you what's been marked		
	364:08 as Exhibit 537?		
	364:09 (Rust Exhibit Number 537 was		
	364:10 marked for identification.)		
	364:11 BY MR. STUEVE:		
	364:12 Q. This is Bates range RAUPDATE		
	364:13 0044348. Did you review this document produced		
	364:14 by Rose Acre in preparation for your deposition		
	364:15 today?		
	364:16 A. Yes, I think so.		
	364:17 Q. This is a document from your		
 574.1.1	364:18 brother, JRust@goodegg.com, that is Rose Acre's		
	364:19 website; right?		
	364:20 A. Yes.		
	364:21 Q. To you dated February 13, 2008, do		
	364:22 you see that?		
	365:01 A. Yes.		



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DESIGNATION	SOURCE	DURATION	ID
365:02	MR. BARNES: GoodEgg is not a		
365:03	website, though.		
365:04	BY MR. STUEVE:		
365:05	Q. It's your URL you use for e-mail?		
365:06	A. Yes.		
365:07	Q. Okay. It says, I don't think --		
365:08	you see his e-mail, I don't think we have		
365:09	anything to be ashamed of by putting as many		
365:10	hens per cage as conditions permit. That is		
365:11	doing what is economically right for consumers		
365:12	rather than trying to restrict cage space to		
365:13	boost prices under the alleged agenda of animal		
365:14	rights. Do you see that?		
365:15	A. Yes.		
365:16	Q. And that was your brother; right,		
365:17	that wrote that to you?		
365:18	A. That's my brother, John.		
365:19	Q. And what he's referring to -- when		
365:20	he's referring to trying to restrict cage space		
365:21	to boost prices, he's referring to the UEP		
365:22	certified program and its cage space		
366:01	requirements; correct, sir?		
366:02	A. I think we were discussing that.		
366:03	I'm not sure, but John is a very anti -- or he's		
366:04	very -- he feels that it don't matter how many		
366:05	square inches you give a chicken and we should		
366:06	be producing at 45 or 48 inches for all the		
366:07	chickens and people who don't want them in cages		
366:08	buy cage free. He's always -- he was never for		
366:09	us joining UEP and being part of the animal		
366:10	welfare program.		
366:11	Q. And the reason why is because he		
366:12	believed that the UEP certified program was an		
366:13	attempt to restrict cage space to boost prices		
366:14	under the alleged agenda of animal rights;		
366:15	correct, sir?		
366:16	A. I'm not sure what he believes.		
366:17	Q. That's what he says?		
366:18	A. That's what it says in the		
366:19	document. Yes.		

Plaintiff Designations	00:31:09
Defense Counters	00:02:16
Plaintiff Reply to Counters	00:01:37
<b>TOTAL RUN TIME</b>	<b>00:35:03</b>



Documents linked to video:

213

402

404

574

710

727

827

828

# 10-26-23\_0933

## Designation List Report



**Rust, Marcus**

**2014-03-06**

Plaintiff Designations	00:21:35
Defense Counters	00:00:51
Plaintiff Reply to Counters	00:00:30
<b>TOTAL RUN TIME</b>	<b>00:22:56</b>



Documents linked to video:

88  
208  
210  
371  
709  
726  
729  
813  
831



**Rust\_03-06-14 - 10-26-23\_0933**

DESIGNATION	SOURCE	DURATION	ID
391:14 - 391:15	<b>Rust, Marcus 2014-03-06</b>	00:00:08	Rust_03-06-14.1
 210.1.1	391:14 Q. Okay. Let me show you what's been 391:15 previously marked 237.		
391:16 - 391:22	<b>Rust, Marcus 2014-03-06</b>	00:00:15	Rust_03-06-14.2
	391:16 This is another United Voices that 391:17 would have been sent out by UEP in March of 391:18 2002; correct, sir? 391:19 A. That's what it states. 391:20 Q. And this would have been after 391:21 you, Rose Acre had joined? 391:22 A. Yes.		
393:02 - 393:11	<b>Rust, Marcus 2014-03-06</b>	00:00:26	Rust_03-06-14.3
 210.3	393:02 Q. All right. It states, "if all the 393:03 industry were to follow the guidelines through  210.3.1 393:04 the first step, this would resulted in a flock 393:05 size reduction of 13 million hens. Place your 393:06 own estimate on how much the egg market will 393:07 rise even if half this reduction were to occur. 393:08 So the pay back for making this first step to 393:09 house average of 56 square inches is 393:10 tremendous." Do you see that? 393:11 A. Yes.		
394:06 - 394:10	<b>Rust, Marcus 2014-03-06</b>	00:00:13	Rust_03-06-14.4
	394:06 Q. And in fact, Mr. Rust, you were 394:07 concerned that this, in fact, was the underlying 394:08 purpose of the certified program even before you 394:09 joined it; right? 394:10 A. We had suspicions of that.		
394:11 - 394:15	<b>Rust, Marcus 2014-03-06</b>	00:00:14	Rust_03-06-14.5
	394:11 Q. Okay. And, in fact, those -- the 394:12 suspicions that you had are confirmed in this -- 394:13 in these communications in United Voices in 394:14 March of 2002; correct, sir? 394:15 A. Repeat your question.		
394:16 - 395:01	<b>Rust, Marcus 2014-03-06</b>	00:00:21	Rust_03-06-14.6
	394:16 Q. The concerns you had about the 394:17 underlying purpose of the animal welfare program 394:18 to be a supply management program is confirmed 394:19 in the communication that we just read; correct,		

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DESIGNATION	SOURCE	DURATION	ID
	394:20 sir?		
	394:21 A. We wanted to make sure it stayed		
	394:22 an animal welfare program and not a supply		
	395:01 management program.		
395:02 - 395:06	<b>Rust, Marcus 2014-03-06</b>	00:00:14	Rust_03-06-14.7
	395:02 Q. And in fact, though, what's being		
	395:03 identified here by Gene Gregory, the president		
	395:04 of UEP, is that, in fact, its underlying purpose		
	395:05 was to restrict the supply and boost prices for		
	395:06 eggs; correct, sir?		
395:09 - 395:18	<b>Rust, Marcus 2014-03-06</b>	00:00:26	Rust_03-06-14.8
	395:09 THE WITNESS: I don't agree with		
	395:10 that.		
	395:11 BY MR. STUEVE:		
	395:12 Q. Certainly what he's outlining is		
	395:13 that the pay back for making this first step to		
	395:14 house average of 56 square inches is tremendous.		
	395:15 The pay back is by reducing the flock size of		
	395:16 13 million you reduce the supply of eggs and		
	395:17 boost prices for all egg producers. That's the		
	395:18 pay back; right?		
395:20 - 396:02	<b>Rust, Marcus 2014-03-06</b>	00:00:39	Rust_03-06-14.9
	395:20 THE WITNESS: Repeat your question		
	395:21 again.		
	395:22 MR. STUEVE: Read it back.		
	396:01 (The record was read as		
	396:02 requested.)		
396:03 - 396:06	<b>Rust, Marcus 2014-03-06</b>	00:00:04	Rust_03-06-14.10
	396:03 THE WITNESS: I do not agree with		
	396:04 your characterization of the statement you're		
	396:05 making.		
	396:06 BY MR. STUEVE:		
396:07 - 396:14	<b>Rust, Marcus 2014-03-06</b>	00:00:24	Rust_03-06-14.11
	396:07 Q. Sir, if you would, can you confirm		
	396:08 for me that the pay back that he's referring to		
	396:09 in the United Voices document that we're looking		
	396:10 at is by reducing the flock size by 13 million,		
	396:11 that that will reduce the supply of eggs and		
	396:12 boost prices; correct, sir?		

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DESIGNATION	SOURCE	DURATION	ID
	396:13 A. I will agree that's what that 396:14 document says.		
396:15 - 396:17	<b>Rust, Marcus 2014-03-06</b>	00:00:05	Rust_03-06-14.12
	396:15 Q. That's all I wanted you to answer. 396:16 A. I have no problem with that. I do 396:17 not agree with your characterization of it.		
396:18 - 396:20	<b>Rust, Marcus 2014-03-06</b>	00:00:03	Rust_03-06-14.13
	396:18 Q. You agree that that's what the 396:19 document says; right? 396:20 A. Yes.		
 Clear			
399:02 - 399:03	<b>Rust, Marcus 2014-03-06</b>	00:00:10	Rust_03-06-14.14
 208.1.2	399:02 Show you what's been marked 538, 399:03 RA 0067638 through 639.		
399:04 - 400:18	<b>Rust, Marcus 2014-03-06</b>	00:01:15	Rust_03-06-14.15
	399:04 (Rust Exhibit Number 538 was 399:05 marked for identification.) 399:06 BY MR. STUEVE:		
 208.1.1	399:07 Q. This is -- these are notes from 399:08 your mother; right? 399:09 A. Yes. 399:10 Q. She would have been the president 399:11 of Rose Acre at this time; right? 399:12 A. Correct. 399:13 Q. She's writing KY Hendrix; right, 399:14 your brother-in-law? 399:15 A. Correct. 399:16 Q. And what was his position at that 399:17 time at the company? 399:18 A. He was assistant flock manager. 399:19 Q. And he's the one that when you 399:20 joined UEP joined the committee responsible for 399:21 the animal welfare guidelines; correct, sir? 399:22 A. Yes. 400:01 Q. It says, "Ky, talked to Marcus," 400:02 that would be you; right? 400:03 A. Correct. 400:04 Q. "Talked to Marcus last night about 400:05 UEP guidelines." Do you see that? 400:06 A. Yes.		

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DESIGNATION	SOURCE	DURATION	ID
	400:07 Q. "They are good, but we are 400:08 concerned with the what looks like the 400:09 underlying purpose," and she under scores that, 400:10 right, of the whole thing; right? 400:11 A. Correct. That had been our 400:12 suspicions the whole time. 400:13 Q. The concern about the underlying 400:14 purpose was it was a supply management tool; 400:15 right? 400:16 A. We was afraid of that. Yes. 400:17 Q. And that's in March 2002; right? 400:18 A. Correct.		
400:19 - 401:05	<b>Rust, Marcus 2014-03-06</b> 400:19 Q. And despite those concerns you, in 400:20 fact, joined the UEP certified program; correct, 400:21 sir? 400:22 A. That's the reason we joined. We 401:01 looked at doing either volunteer -- the program 401:02 or the UEP. We decided we wanted to be involved 401:03 into it to make sure that it stayed to the 401:04 program and never become a supply management 401:05 program.	00:00:24	Rust_03-06-14.16
401:06 - 401:09	<b>Rust, Marcus 2014-03-06</b> 401:06 Q. The -- this note here is 401:07 March 27th of 2002. That would have been 401:08 shortly after you joined UEP; right? 401:09 A. Correct.	00:00:09	Rust_03-06-14.17
402:08 - 402:15	<b>Rust, Marcus 2014-03-06</b> 402:08 Q. You've already testified that the 402:09 underlying purpose concern was a concern that it 402:10 was a supply management program; correct? 402:11 A. Correct. 402:12 Q. I just want to confirm that this 402:13 note reflects that that was the concern both of 402:14 your mother and you at that time; fair enough? 402:15 A. Yes.	00:00:18	Rust_03-06-14.18
434:17 - 434:18  371.1.1	<b>Rust, Marcus 2014-03-06</b> 434:17 Q. Show you what's previously been 434:18 marked as Exhibit 248.	00:00:04	Rust_03-06-14.19

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DESIGNATION	SOURCE	DURATION	ID
434:19 - 435:02	<b>Rust, Marcus 2014-03-06</b> 434:19 This is United Voices dated 434:20 August 12, 2004; is that correct? 434:21 A. Yes. 434:22 Q. And this is a United Voices that 435:01 was produced by Rose Acre; is that correct? 435:02 A. Yes.	00:00:14	Rust_03-06-14.20
435:03 - 435:04  371.2	<b>Rust, Marcus 2014-03-06</b> 435:03 Q. So if you could turn to page 2 of 435:04 this document. It's discussing the topic of	00:00:04	Rust_03-06-14.21
435:05 - 436:07  371.2.2	<b>Rust, Marcus 2014-03-06</b> 435:05 backfilling, a loophole of a hangman noose? 435:06 A. Okay. 435:07 Q. Is that an editorial by Al Pope? 435:08 A. Yes. 435:09 Q. He's one of the folks at UEP you 435:10 don't trust; is that right? 435:11 A. Yes. 435:12 Q. And he starts, "whose program is 435:13 it anyway, this UEP animal certified program? 435:14 It's really -- it's not really UEP's per se, 435:15 certainly not UEP staff, know the program 435:16 belongs to those of you who are participating in 435:17 the program. You decide how the program 435:18 operates." Did I read that correctly? 435:19 A. Yes. 435:20 Q. And he says, "in this regard, the 435:21 original intent of permitting animal care 435:22 certified companies to backfill was to 436:01 accommodate those few extra unexpected pullets 436:02 from a grow out facility." Do you see that? 436:03 A. Yes. 436:04 Q. What he's referring to there is 436:05 that backfilling was permitted under the animal 436:06 care certified program initially; is that right? 436:07 A. Yes.	00:01:18	Rust_03-06-14.22
436:09 - 437:01	<b>Rust, Marcus 2014-03-06</b> 436:09 BY MR. STUEVE: 436:10 Q. Backfilling was not considered an 436:11 animal welfare issue under the guidelines as	00:00:36	Rust_03-06-14.23



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DESIGNATION	SOURCE	DURATION	ID
 Clear	436:12 initially drafted; correct?		
	436:13 A. I don't recollect that. I don't		
	436:14 recollect what the -- when the guidelines		
	436:15 changed.		
	436:16 Q. But you do recall they were		
	436:17 changed; right?		
	436:18 A. Right.		
	436:19 Q. And the reason why they were		
	436:20 changed was because the backfilling was reducing		
	436:21 the impact of the supply reduction that the cage		
	436:22 space requirement was intended to achieve;		
	437:01 correct, sir?		
437:04 - 437:08	<b>Rust, Marcus 2014-03-06</b>	00:00:22	Rust_03-06-14.24
	437:04 THE WITNESS: Repeat the question		
	437:05 again.		
	437:06 MR. STUEVE: Read it back, please.		
	437:07 (The record was read as		
	437:08 requested.)		
437:11 - 437:11	<b>Rust, Marcus 2014-03-06</b>	00:00:03	Rust_03-06-14.25
	437:11 THE WITNESS: I'm reading it.		
437:12 - 437:13	<b>Rust, Marcus 2014-03-06</b>	00:00:02	Rust_03-06-14.26
	437:12 MR. BARNES: Do you want to repeat		
	437:13 your question?		
437:14 - 437:18	<b>Rust, Marcus 2014-03-06</b>	00:00:06	Rust_03-06-14.27
	437:14 BY MR. STUEVE:		
	437:15 Q. Sir, do you want her to read it		
	437:16 back to you so you can answer it?		
	437:17 A. Well, let me finish reading this.		
	437:18 Okay.		
437:19 - 437:22	<b>Rust, Marcus 2014-03-06</b>	00:00:27	Rust_03-06-14.28
	437:19 MR. STUEVE: Can you read the		
	437:20 question back?		
	437:21 (The record was read as		
	437:22 requested.)		
438:02 - 438:02	<b>Rust, Marcus 2014-03-06</b>	00:00:02	Rust_03-06-14.29
	438:02 THE WITNESS: That's what it says.		
457:03 - 457:19	<b>Rust, Marcus 2014-03-06</b>	00:01:06	Rust_03-06-14.30
	457:03 Q. Did you vote as a Board member in		


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DESIGNATION	SOURCE	DURATION	ID
	457:04 favor of the banning of backfilling in 2006?		
	457:05 A. I don't recollect how I voted on		
	457:06 that. I would have probably voted against it.		
	457:07 Q. And the reason why you would have		
	457:08 voted against it was because it was a supply		
	457:09 restriction; fair enough, sir?		
	457:10 A. Repeat your question.		
	457:11 MR. STUEVE: Read it back to him,		
	457:12 please.		
	457:13 (The record was read as		
	457:14 requested.)		
	457:15 THE WITNESS: I'm not sure -- go		
	457:16 through it again.		
	457:17 (The record was read as		
	457:18 requested.)		
	457:19 THE WITNESS: Probably.		
457:20 - 458:01	<b>Rust, Marcus 2014-03-06</b>	00:00:10	Rust_03-06-14.31
 813.1.2	457:20 (Rust Exhibit Number 544 was		
	457:21 marked for identification.)		
	457:22 MR. STUEVE: 544 is RA 0067466		
	458:01 through 67.		
458:02 - 458:09	<b>Rust, Marcus 2014-03-06</b>	00:00:20	Rust_03-06-14.32
 813.1.1	458:02 If you would, on Exhibit 544 under		
	458:03 D, this is a document prepared by KY Hendrix to		
	458:04 all complex managers production managers;		
	458:05 correct.		
	458:06 THE WITNESS: Yes.		
	458:07 BY MR. STUEVE:		
	458:08 Q. And this is dated May 31, 2005?		
	458:09 A. Yes.		
461:01 - 461:08	<b>Rust, Marcus 2014-03-06</b>	00:00:24	Rust_03-06-14.33
 813.2	461:01 Q. Now, over on the next page, bullet		
 813.2.1	461:02 point number three, it says, "backfilling should		
	461:03 have stopped by now"?		
	461:04 A. Yeah.		
	461:05 Q. See that. So even though you		
	461:06 believed the backfilling ban was a supply		
	461:07 restriction, Rose Acre complied with that		
	461:08 requirement; is that correct, sir?		


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DESIGNATION	SOURCE	DURATION	ID
461:10 - 461:15	<b>Rust, Marcus 2014-03-06</b> 461:10 THE WITNESS: State your question, 461:11 please. 461:12 MR. STUEVE: Read it back for him, 461:13 please. 461:14 (The record was read as 461:15 requested.)	00:00:22	Rust_03-06-14.34
461:17 - 461:17	<b>Rust, Marcus 2014-03-06</b> 461:17 THE WITNESS: Yes.	00:00:02	Rust_03-06-14.35
487:07 - 487:08  726.1.3	<b>Rust, Marcus 2014-03-06</b> 487:07 Q. I'll show you what's previously 487:08 been marked as 322. Sir, if you look at -- this	00:00:04	Rust_03-06-14.36
487:09 - 487:14  726.1.1	<b>Rust, Marcus 2014-03-06</b> 487:09 is a communication from Gene Gregory to you 487:10 entitled subject Program Review. Do you see 487:11 that? 487:12 A. Yes. 487:13 MR. BARNES: It's to a lot of 487:14 people.	00:00:15	Rust_03-06-14.37
487:15 - 488:08  726.1.2	<b>Rust, Marcus 2014-03-06</b> 487:15 BY MR. STUEVE: 487:16 Q. And it says, "as I had time to 487:17 reflect upon the Board motion in Seattle that 487:18 now requires us at the January Board meeting to 487:19 have an open discussion of UEP's animal welfare, 487:20 UEP's certified program. It causes me to expect 487:21 the debate of the 100 percent rule once again to 487:22 come up." Do you know what he's referring to 488:01 there as the 100 percent rule? 488:02 A. Not 100 percent for sure which 488:03 one. 488:04 Q. What is your understanding of the 488:05 100 percent rule? 488:06 A. Read through the rest of this. 488:07 I'm not 100 percent sure what he's talking 488:08 about. Can I read it?	00:00:44	Rust_03-06-14.38
488:09 - 489:01	<b>Rust, Marcus 2014-03-06</b> 488:09 Q. Yes. 488:10 A. Okay.	00:00:40	Rust_03-06-14.39

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DESIGNATION	SOURCE	DURATION	ID
 Clear	488:11 Q. What is your understand of the		
	488:12 100 percent rule, sir?		
	488:13 A. If you owned chickens that you was		
	488:14 going to keep all your chickens under the animal		
	488:15 welfare program.		
	488:16 Q. So this is different from the		
	488:17 prohibition of purchasing the requirement to		
	488:18 only purchase eggs that are certified; right?		
	488:19 A. Correct.		
	488:20 Q. All right. And when was this --		
	488:21 the 100 percent rule implemented?		
	488:22 A. After it come to light there were		
	489:01 several people having birds both ways.		
489:02 - 489:04	<b>Rust, Marcus 2014-03-06</b>	00:00:04	Rust_03-06-14.40
 729.1.2	489:02 Q. And were you in favor of the		
	489:03 100 percent rule?		
	489:04 A. Yes.		
492:06 - 492:07	<b>Rust, Marcus 2014-03-06</b>	00:00:09	Rust_03-06-14.41
 729.1.1	492:06 Q. I'll show you what's been marked		
	492:07 Exhibit 546 RAUPDATE 34892.		
	492:08 <b>Rust, Marcus 2014-03-06</b>	00:00:29	Rust_03-06-14.42
	492:08 This is an e-mail from Greg Hinton		
	492:09 of Rose Acre; right?		
	492:10 A. Yes.		
	492:11 Q. Who was on the Marketing Committee		
	492:12 in '06; right?		
	492:13 A. Correct.		
	492:14 Q. To KY Hendrix, who would have been		
	492:15 on the Animal Welfare Committee; right?		
	492:16 A. Yes.		
	492:17 Q. It says, "KY, I think that your		
493:04 - 493:07	492:18 committee should make a motion that no certified		
	492:19 producer can process noncertified eggs, shell or		
	492:20 liquid, in their plant." Did I read that		
	492:21 correctly?		
	492:22 A. Yes.		
493:04 - 493:07	<b>Rust, Marcus 2014-03-06</b>	00:00:11	Rust_03-06-14.43
	493:04 Q. And that appears to have been an		
	493:05 idea that Greg Hinton was proposing, of your		

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DESIGNATION	SOURCE	DURATION	ID
	493:06 company; right?		
	493:07 A. Yes.		
493:04 - 493:07	<b>Rust, Marcus 2014-03-06</b>	00:00:11	Rust_03-06-14.44
	493:04 Q. And that appears to have been an		
	493:05 idea that Greg Hinton was proposing, of your		
	493:06 company; right?		
	493:07 A. Yes.		
494:05 - 494:09	<b>Rust, Marcus 2014-03-06</b>	00:00:11	Rust_03-06-14.45
 831.1.1	494:05 Q. I'm going to show you what's been		
	494:06 marked Exhibit 547, it's RAUPDATE 0035814		
	494:07 through 16.		
	494:08 (Rust Exhibit Number 547 was		
	494:09 marked for identification.)		
495:03 - 495:06	<b>Rust, Marcus 2014-03-06</b>	00:00:07	Rust_03-06-14.46
	495:03 Q. I just have a general question.		
	495:04 Was this your communication back and forth with		
 831.1.2	495:05 Gene Gregory?		
	495:06 A. Yes.		
498:02 - 498:06	<b>Rust, Marcus 2014-03-06</b>	00:00:16	Rust_03-06-14.47
	498:02 Q. Well, when you became UEP		
	498:03 certified did you stop purchasing noncertified		
	498:04 eggs for your facilities?		
	498:05 A. I think we have always bought		
	498:06 some, but not very many.		
499:03 - 499:21	<b>Rust, Marcus 2014-03-06</b>	00:00:43	Rust_03-06-14.48
 831.1.3	499:03 Q. Let's look down here at the bottom		
	499:04 of the page here. Gene Gregory states the last		
	499:05 sentence here, "we are fortunate" -- on the		
	499:06 first page, right at the bottom the very last		
	499:07 sentence. Are you there where it says, "we are		
	499:08 fortunate."		
	499:09 A. Yeah.		
	499:10 Q. It says, "we are fortunate that		
	499:11 most UEP certified companies have already made a		
	499:12 company policy to not purchase any noncertified		
	499:13 eggs." Do you see that?		
	499:14 A. Yes.		
	499:15 Q. That was a policy of Rose Acre;		
	499:16 was it not?		

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DESIGNATION	SOURCE	DURATION	ID
	499:17 A. Yes and no.		
	499:18 Q. Okay. Did you try to comply with		
	499:19 that policy?		
	499:20 A. We tried, but there's times we		
	499:21 weren't able to.		
503:08 - 503:08	<b>Rust, Marcus 2014-03-06</b>	00:00:07	Rust_03-06-14.49
 709.1.2	503:08 Q. Rust 548, RAUPDATE 0034691.		
503:09 - 505:04	<b>Rust, Marcus 2014-03-06</b>	00:01:39	Rust_03-06-14.50
	503:09 (Rust Exhibit Number 548 was		
	503:10 marked for identification.)		
	503:11 BY MR. STUEVE:		
	503:12 Q. Do you see here the e-mail is the		
 709.1.1	503:13 middle from you to Brad Ginnane. Who is Brad		
	503:14 Ginnane?		
	503:15 A. He's our dried egg product sales		
	503:16 manager.		
	503:17 Q. It says, "Brad, Michael just		
	503:18 announced they're going into the ACC program."		
	503:19 That's the UEP certified program; right?		
	503:20 A. Correct.		
	503:21 Q. "That alone will cause market to		
	503:22 go up. Unsold and unpriced rights will be		
	504:01 excellent property." Do you see that?		
	504:02 A. Yes.		
	504:03 Q. And the reason why you believed		
	504:04 egg prices would immediately jump was because in		
	504:05 order for them to comply with the cage case		
	504:06 requirements that would reduce the egg supply		
	504:07 and boost the prices; correct, sir?		
	504:08 A. No.		
	504:09 Q. What are you referring to there?		
	504:10 A. Egg whites is something you dried		
	504:11 and produce over the summer months, you buy at		
	504:12 low prices.		
	504:13 Q. Uh-huh.		
	504:14 A. Over the summer months you can		
	504:15 store egg whites for up to a year, year and a		
	504:16 half and even longer, I think. And egg whites		
	504:17 eventually when the ACC program, if you look at		
	504:18 the step down effect, was going into the fall of		

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DESIGNATION	SOURCE	DURATION	ID
	504:19 the year, the egg white powder will go up. It's		
	504:20 not immediate. It's going to be five to		
	504:21 six months from now.		
	504:22 Q. Right. But what you were saying		
	505:01 was that because they were joining the ACC		
	505:02 program, which had the cage space requirements		
	505:03 that they now had to comply with, that that		
	505:04 would result in higher prices; correct, sir?		
505:06 - 505:17	<b>Rust, Marcus 2014-03-06</b>	00:00:32	Rust_03-06-14.51
	505:06 THE WITNESS: If you look right		
	505:07 here it says he replied back -- that's what I		
	505:08 thought, but he replied back and said the		
	505:09 inventory went up 5 percent in May, which means		
	505:10 more powder --		
	505:11 BY MR. STUEVE:		
	505:12 Q. No. You got the e-mail string		
	505:13 wrong. He wrote you first, then you wrote.		
	505:14 What you were saying in there is that because		
	505:15 Michael Foods was joining the certified program		
	505:16 with its cage space requirements, that would		
	505:17 cause the market to go up; correct?		
505:19 - 505:20	<b>Rust, Marcus 2014-03-06</b>	00:00:05	Rust_03-06-14.52
	505:19 THE WITNESS: What I printed there		
	505:20 is what I felt at the time, I guess.		
595:09 - 595:10	<b>Rust, Marcus 2014-03-06</b>	00:00:11	Rust_03-06-14.53
 88.1.3	595:09 Q. Show you what's been marked as		
	595:10 565, it's RAUPDATE 0038374 through 77.		
595:11 - 595:13	<b>Rust, Marcus 2014-03-06</b>	00:00:15	Rust_03-06-14.54
	595:11 I'm going to ask you about the top		
	595:12 two e-mails on the first page of 565. Have you		
	595:13 had a chance to review those?		
595:14 - 597:03	<b>Rust, Marcus 2014-03-06</b>	00:01:21	Rust_03-06-14.55
	595:14 A. I'm reading. Okay. One page is		
	595:15 blank.		
 88.1.1	595:16 Q. If you would, on your e-mail from		
	595:17 you to Gene Gregory, who was in management at		
	595:18 UEP; is that correct?		
	595:19 A. Yeah.		
	595:20 Q. He was one of the leaders of		

**Rust\_03-06-14 - 10-26-23\_0933**

DESIGNATION	SOURCE	DURATION	ID
 88.1.2	595:21 United Egg Producers?		
	595:22 A. Yeah.		
	596:01 Q. Okay. And it says, "Gene, scuttle		
	596:02 bug has it Michaels is still backfilling.		
	596:03 Industry spies at work. Mexicans. I think		
	596:04 Terry should be advised that maybe backfilling		
	596:05 isn't the wisest thing to do under the		
	596:06 microscope they're under." Do you see that?		
	596:07 A. Yes.		
	596:08 Q. Now, this is before they had		
	596:09 joined; right?		
	596:10 A. I don't recollect the actual date.		
	596:11 Q. Well, you go on to say, "I realize		
	596:12 they are not on the program as of yet and is		
	596:13 legal but not in the question of the program."		
	596:14 Do you see that?		
	596:15 A. Yeah.		
	596:16 Q. So this would have been at the		
	596:17 time, again, where you were upset that they were		
	596:18 going to be permitted to join without		
	596:19 100 percent -- without compliance with the		
	596:20 100 percent rule; right?		
	596:21 A. Could have been.		
	596:22 Q. And so you were reporting to Gene		
	597:01 that, in fact, even before they joined that they		
	597:02 were engaged in backfilling; right?		
	597:03 A. Yeah.		
668:11 - 668:18	<b>Rust, Marcus 2014-03-06</b>	00:00:34	Rust_03-06-14.56
	668:11 Q. There has been previous testimony,		
	668:12 Mr. Rust, about who can buy noncertified eggs,		
	668:13 whether UEP certified members can buy		
	668:14 noncertified eggs from other sources. Can you		
	668:15 please tell us whether your company, Rose Acre		
	668:16 Farms, which is a UEP certified member, has been		
	668:17 for a decade, whether Rose Acre Farms currently		
	668:18 buys noncertified eggs?		
668:21 - 669:04	<b>Rust, Marcus 2014-03-06</b>	00:00:12	Rust_03-06-14.57
	668:21 THE WITNESS: We buy some.		
	668:22 BY MR. BARNES:		
	669:01 Q. How long have you -- you meaning		



**Rust\_03-06-14 - 10-26-23\_0933**

DESIGNATION	SOURCE	DURATION	ID
	669:02 Rose Acre Farms -- purchased noncertified eggs?		
	669:03 A. Off and on during the whole time		
	669:04 of the whole program.		
719:06 - 719:16	<b>Rust, Marcus 2014-03-06</b>	00:00:49	Rust_03-06-14.58
 709.1	719:06 Q. All right. Now, you were also		
	719:07 directed to 548, the middle sentence -- the		
 709.1.1	719:08 middle e-mail that you prepared June 15th, 2006;		
	719:09 right?		
	719:10 A. Yeah.		
	719:11 Q. The event that you attributed your		
	719:12 belief that the market would go up was Michael		
	719:13 Foods' announcement that it was going into the		
	719:14 certified program, and therefore was going to be		
	719:15 required to comply with cage space requirements;		
	719:16 correct, sir?		
719:19 - 720:05	<b>Rust, Marcus 2014-03-06</b>	00:00:37	Rust_03-06-14.59
	719:19 THE WITNESS: That's what that --		
	719:20 I'm not following what you're asking. You're		
	719:21 reading a statement that says that here, so what		
	719:22 are you asking?		
	720:01 MR. STUEVE: If you could read		
	720:02 back my question, and I ask for you to answer		
	720:03 it.		
	720:04 (The record was read as		
	720:05 requested.)		
720:07 - 720:14	<b>Rust, Marcus 2014-03-06</b>	00:00:23	Rust_03-06-14.60
	720:07 THE WITNESS: I'm still not sure		
	720:08 what you're asking me to refer to.		
	720:09 BY MR. STUEVE:		
	720:10 Q. The event that you believed would		
	720:11 result in the market going up was Michael Foods		
	720:12 joining the certified program and now being		
	720:13 required to comply with cage space requirements;		
	720:14 correct, sir?		
720:16 - 721:02	<b>Rust, Marcus 2014-03-06</b>	00:00:34	Rust_03-06-14.61
	720:16 THE WITNESS: What are you asking		
	720:17 about?		
	720:18 BY MR. STUEVE:		
	720:19 Q. Is that correct? If you could		

**Rust\_03-06-14 - 10-26-23\_0933**

DESIGNATION	SOURCE	DURATION	ID
	720:20	read back my question, and listen to my question	
	720:21	and answer it for me, sir.	
	720:22	(The record was read as	
	721:01	requested.)	
	721:02	THE WITNESS: Yeah.	

Plaintiff Designations	00:21:35
Defense Counters	00:00:51
Plaintiff Reply to Counters	00:00:30
<b>TOTAL RUN TIME</b>	<b>00:22:56</b>



Documents linked to video:

88  
208  
210  
371  
709  
726  
729  
813  
831

# 10-25-23\_2113

## Designation List Report



**Rust, Marcus**

**2014-03-07**

Plaintiff Designations	00:27:19
Defense Counters	00:01:25
<b>TOTAL RUN TIME</b>	<b>00:28:44</b>



Documents linked to video:

166

364

569

720

**Rust\_03-07-14 - 10-25-23\_2113**

DESIGNATION	SOURCE	DURATION	ID
14:22 - 15:07	<b>Rust, Marcus 2014-03-07</b>	00:00:15	Rust_03-07-14.1
	14:22 Q. Good morning, Mr. Rust.		
	14:23 A. Good morning.		
	14:24 Q. Please state your name and		
	14:25 current position.		
	15:01		
	15:02 A. Marcus Rust, CEO, Rose Acre		
	15:03 Farms.		
	15:04 Q. Do you understand that you're		
	15:05 testifying today as a representative of Rose		
	15:06 Acre and in your individual capacity?		
	15:07 A. Yes.		
16:09 - 17:15	<b>Rust, Marcus 2014-03-07</b>	00:01:03	Rust_03-07-14.2
	16:09 Q. How many years have you been		
	16:10 actually working for the company?		
	16:11 A. Probably effective 30 or 40.		
	16:12 Q. 30 or 40 years?		
	16:13 A. 40 years plus.		
	16:14 Q. How long have you held your		
	16:15 current position of CEO?		
	16:16 A. About two and a half years.		
	16:17 Q. Two and a half years?		
	16:18 A. Yes.		
	16:19 Q. Which positions did you hold at		
	16:20 Rose Acre between 2000 and 2008?		
	16:21 A. I was kind of -- it's a family		
	16:22 farm, and I was kind of -- I had a title, but		
	16:23 I was still kind of the traffic cop.		
	16:24 Q. What was your title in 2000?		
	16:25 A. I was I think a vice president.		
	17:01		
	17:02 Q. Vice president?		
	17:03 A. Yes.		
	17:04 Q. And in 2001?		
	17:05 A. The same.		
	17:06 Q. The same?		
	17:07 A. Yeah.		
	17:08 Q. Were you a vice president from		
	17:09 2000 all the way to 2008?		
	17:10 A. Since the early '70s.		

**Rust\_03-07-14 - 10-25-23\_2113**

DESIGNATION	SOURCE	DURATION	ID
	17:11 Q. Early '70s. And you actually		
	17:12 became the CEO in 2012?		
	17:13 A. 2011.		
	17:14 Q. 2011, okay.		
	17:15 A. November.		
26:08 - 26:20	<b>Rust, Marcus 2014-03-07</b>	00:00:26	Rust_03-07-14.3
	26:08 Q. Was the board of directors		
	26:09 ultimately in charge of the UEP?		
	26:10 A. I think the Executive Committee		
	26:11 was.		
	26:12 Q. Were members of the Executive		
	26:13 Committee also members of the board?		
	26:14 A. I would assume they were. I'm		
	26:15 not sure.		
	26:16 Q. So when the UEP committees		
	26:17 passed motions or made recommendations, did		
	26:18 the board have to approve those actions?		
	26:19 A. The board would vote on them,		
	26:20 yes.		
27:05 - 28:09	<b>Rust, Marcus 2014-03-07</b>	00:00:53	Rust_03-07-14.4
	27:05 Q. Are most of the other board		
	27:06 members high level employees of other egg		
	27:07 producers?		
	27:08 A. Either owners of farms or high		
	27:09 level people of those farms.		
	27:10 Q. Is it fair to say that the		
	27:11 board members worked together to further the		
	27:12 interest of the UEP?		
	27:13 A. I think that was what the		
	27:14 purpose of the board was.		
	27:15 Q. When you served on the board of		
	27:16 the UEP, were you also furthering the		
	27:17 interest of Rose Acre Farms?		
	27:18 A. Yes.		
	27:19 Q. Are you familiar with the		
	27:20 United Voices newsletter?		
	27:21 A. Yes.		
	27:22 Q. That was the UEP's official		
	27:23 newsletter. Right?		
	27:24 A. Yes, that's what they sent out		

**Rust\_03-07-14 - 10-25-23\_2113**

DESIGNATION	SOURCE	DURATION	ID
	27:25 to different people's offices.		
	28:01		
	28:02 Q. When Rose Acre was a member of		
	28:03 the UEP, was the United Voices newsletter		
	28:04 sent to Rose Acre's offices?		
	28:05 A. It was sent to the main office.		
	28:06 Q. The main office, where is that?		
	28:07 A. Seymour.		
	28:08 Q. Seymour?		
	28:09 A. Indiana.		
35:15 - 36:08	<b>Rust, Marcus 2014-03-07</b>	00:00:37	Rust_03-07-14.5
	35:15 Q. Do you have any reason to		
	35:16 believe that you weren't regularly e-mailed		
	35:17 the newsletter in 2005?		
	35:18 A. Like I said earlier, I was		
	35:19 e-mailed them, I can't say that I ever read		
	35:20 any or all of them.		
	35:21 Q. Were you regularly e-mailed the		
	35:22 newsletter in 2006?		
	35:23 A. Probably.		
	35:24 Q. How about 2007?		
	35:25 A. I was probably on the list for		
	36:01		
	36:02 the entire time with the case or the -- as a		
	36:03 board member. I think they're supposed to		
	36:04 send them out to the board members.		
	36:05 Q. So it's fair to say you were		
	36:06 most likely e-mailed the newsletter the		
	36:07 entire time you were in the UEP?		
	36:08 A. Yes.		
36:09 - 36:10	<b>Rust, Marcus 2014-03-07</b>	00:00:03	Rust_03-07-14.6
	36:09 Q. Did you read the United Voices		
	36:10 newsletter?		
36:13 - 36:15	<b>Rust, Marcus 2014-03-07</b>	00:00:03	Rust_03-07-14.7
	36:13 THE WITNESS: I said I've read		
	36:14 it sometimes. A lot of times I did		
	36:15 not.		
36:17 - 36:19	<b>Rust, Marcus 2014-03-07</b>	00:00:05	Rust_03-07-14.8
	36:17 Q. What percentage of the times do		

**Rust\_03-07-14 - 10-25-23\_2113**

DESIGNATION	SOURCE	DURATION	ID
	36:18 you think you read it?		
	36:19 A. 20 percent maybe.		
50:21 - 51:05	<b>Rust, Marcus 2014-03-07</b>	00:00:17	Rust_03-07-14.9
	50:21 Q. Is it fair to say, though, that		
	50:22 egg producers backfilled in order to produce		
	50:23 more eggs?		
	50:24 A. You would get more eggs per		
	50:25 space, henhouse space. You wouldn't get more		
	51:01		
	51:02 eggs per hen when you backfilled.		
	51:03 Q. So for henhouse space, if you		
	51:04 backfill, you would get more eggs?		
	51:05 A. Correct.		
53:10 - 53:12	<b>Rust, Marcus 2014-03-07</b>	00:00:06	Rust_03-07-14.10
	53:10 Q. Just to say it again, Mr. Rust,		
	53:11 you testified that producers backfilled to		
	53:12 produce more eggs. Is that correct?		
53:14 - 53:23	<b>Rust, Marcus 2014-03-07</b>	00:00:16	Rust_03-07-14.11
	53:14 THE WITNESS: That's the reason		
	53:15 you would put more chickens in the		
	53:16 house to get more eggs out.		
	53:17		
	53:18 Q. And then I asked if the UEP by		
	53:19 recommending that producers stop backfilling		
	53:20 is essentially recommending that they produce		
	53:21 less eggs?		
	53:22 A. You could assume that from that		
	53:23 recommendation.		
55:23 - 56:14	<b>Rust, Marcus 2014-03-07</b>	00:00:36	Rust_03-07-14.12
 166.1.1	55:23 Q. Mr. Rust, I've just handed you		
	55:24 what's been marked as Exhibit 2 which is a		
	55:25 September 2003 edition of United Voices		
	56:01		
	56:02 newsletter, Bates stamped UE0875297 through		
	56:03 5304. Is that correct?		
	56:04 A. Yes.		
	56:05 Q. And Rose Acre was a member of		
	56:06 the UEP in 2003. Right?		
	56:07 A. Yes, we just joined.		

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DESIGNATION	SOURCE	DURATION	ID
	56:08 Q. You joined in 2002. Is that		
	56:09 correct?		
	56:10 A. Yes. 2002, 2003, I would call		
	56:11 that just joining.		
	56:12 Q. Fair enough. And you were on		
	56:13 the UEP board of directors in 2003?		
	56:14 A. Yes.		
59:07 - 60:02	<b>Rust, Marcus 2014-03-07</b>	00:00:43	Rust_03-07-14.13
 166.2	59:07 Q. You see the sentence that says,		
 166.2.1	59:08 "One sure way of having poorer egg prices is		
	59:09 by increasing egg supplies through holding		
	59:10 hens longer and keeping hens that should be		
	59:11 disposed."		
	59:12 Based on your experience in the		
	59:13 egg industry, do you believe that -- you		
	59:14 agree with that statement?		
	59:15 A. It's possible. Sometimes --		
	59:16 you know, increasing the hatch sometimes will		
	59:17 cause the market to go down. If the		
	59:18 producers hang onto a lot of birds and don't		
	59:19 sell them, that can cause the egg supply to		
	59:20 be longer. You know, they're --		
	59:21 Q. What do you mean by "longer"?		
 Clear	59:22 I'm sorry.		
	59:23 A. The supply. If you got -- if		
	59:24 people don't sell their chickens or don't		
	59:25 kill them, you know, how many gets killed is		
	60:01		
	60:02 kind of a guesstimate in the industry. ....		
60:16 - 60:19	<b>Rust, Marcus 2014-03-07</b>	00:00:10	Rust_03-07-14.14
	60:16 ..... So the		
	60:17 flock number is one that I think USDA kind of		
	60:18 guesses at because they really don't know how		
	60:19 many birds are still left out there.		
125:04 - 125:09	<b>Rust, Marcus 2014-03-07</b>	00:00:13	Rust_03-07-14.15
	125:04 Q. Mr. Rust, I'd like to ask you		
	125:05 some questions about the United States Egg		
	125:06 Marketers. Will you understand what I'm		
	125:07 referring to if I refer to the United States		
	125:08 Egg Marketers as USEM?		



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DESIGNATION	SOURCE	DURATION	ID
	125:09 A. Yes.		
127:13 - 128:05	<b>Rust, Marcus 2014-03-07</b>	00:00:41	Rust_03-07-14.16
	127:13 Q. What is your understanding of		
	127:14 the USEM's purpose?		
	127:15 A. It's an egg export. Whenever		
	127:16 they can get large amounts of a big export		
	127:17 order, it was a group formed to export eggs		
	127:18 and supply needs for other countries.		
	127:19 Q. Is that the -- what else does		
	127:20 the organization do other than exports, or is		
	127:21 that it?		
	127:22 A. That's the only thing it's		
	127:23 done.		
	127:24 Q. When did Rose Acre join USEM?		
	127:25 A. Right after we started building		
	128:01		
	128:02 our facility in North Carolina.		
	128:03 Q. Do you know when that was?		
	128:04 A. About 2006, 2007, something		
	128:05 like that.		
129:14 - 129:17	<b>Rust, Marcus 2014-03-07</b>	00:00:05	Rust_03-07-14.17
	129:14 ..... Rose Acre		
	129:15 participated in USEM exports. Is that		
	129:16 correct?		
	129:17 A. Correct.		
133:06 - 133:16	<b>Rust, Marcus 2014-03-07</b>	00:00:25	Rust_03-07-14.18
	133:06 Q. Were you ever a member of the		
	133:07 UEP's Export Committee?		
	133:08 A. I was from the time that we		
	133:09 joined USEM.		
	133:10 Q. What was the purpose of that		
	133:11 committee?		
	133:12 A. That was whether or not to --		
	133:13 we would look at an export order and make a		
	133:14 determination if it was something we would		
	133:15 take to the members to vote on whether or not		
	133:16 they would do it or not.		
182:11 - 182:16	<b>Rust, Marcus 2014-03-07</b>	00:00:22	Rust_03-07-14.19
	182:11 Q. How many birds does a standard		

**Rust\_03-07-14 - 10-25-23\_2113**

DESIGNATION	SOURCE	DURATION	ID
	182:12 Rose Acre laying house hold?		
	182:13 A. Anywheres from 45,000 to		
	182:14 300,000. There is no real standard.		
	182:15 Everyone does different things for different		
	182:16 reasons.		
189:16 - 189:22	<b>Rust, Marcus 2014-03-07</b>	00:00:27	Rust_03-07-14.20
 364.1.2	189:16 Q. I've handed you what's been		
	189:17 marked as Exhibit 20, Mr. Rust, which is an		
	189:18 e-mail that you sent to John Rust on		
 364.1.1	189:19 February 13, 2008.		
	189:20 A. Let me read it here.		
	189:21 Q. I'm sorry, this is from John		
	189:22 Rust to you, Bates stamped RA0043711.		
189:23 - 190:08	<b>Rust, Marcus 2014-03-07</b>	00:00:28	Rust_03-07-14.21
	189:23 A. [Reviewing document.]		
	189:24 Q. Have you read it, Mr. Rust?		
	189:25 A. Yes.		
	190:01		
	190:02 Q. So at the top of the e-mail it		
	190:03 says that it's from John Rust. It was sent		
	190:04 on Wednesday, February 13, 2008, to you, and		
	190:05 the subject appears to be "piocs," I'm		
	190:06 assuming that was pics and it was misspelled,		
	190:07 or do you know what piocs means?		
	190:08 A. Just a second here. Okay.		
190:09 - 191:22	<b>Rust, Marcus 2014-03-07</b>	00:01:34	Rust_03-07-14.22
	190:09 Pictures, yes.		
	190:10 Q. So his e-mail to you is in		
	190:11 response to the e-mail that you sent on		
	190:12 February 13, 2008, that's below. Correct?		
	190:13 A. Is a what again?		
	190:14 Q. That is below on this document.		
	190:15 A. Yes.		
	190:16 Q. So on the e-mail you sent on		
	190:17 February 13, 2008, says, "when you look at		
	190:18 the pics of your farm report you cannot help		
	190:19 but like farms with cage free birds better --		
	190:20 we are in a damnable war on that issue."		
	190:21 Did I read that correctly?		
	190:22 A. Yes.		

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DESIGNATION	SOURCE	DURATION	ID
	190:23 Q. And then he responded with the		
	190:24 e-mail above on that same document saying,		
	190:25 "Well, I know, that's why I think it is silly		
	191:01		
	191:02 to have arguments about cage space per		
	191:03 bird.... I don't think we have anything to		
	191:04 be ashamed of by putting as many hens per		
	191:05 cage as conditions permit as that is doing		
	191:06 what is economically right for		
	191:07 consumers...rather than trying to restrict		
	191:08 cage space to boost prices under the alleged		
	191:09 agenda of animal rights.		
	191:10 "We lose the moral right to		
	191:11 argue for the continued right of low cost		
	191:12 production costs when we ourselves are		
	191:13 manipulating the system under false		
	191:14 pretenses."		
	191:15 Should be caged birds and cage		
	191:16 free, let the consumers pick.....the cage		
	191:17 density thing is morally wrong in my opinion		
	191:18 and long term is going to give us a huge		
	191:19 black eye with consumers who just want		
	191:20 economical food.		
	191:21 Correct?		
	191:22 A. Correct.		
191:25 - 195:02	<b>Rust, Marcus 2014-03-07</b>	00:03:15	Rust_03-07-14.23
	191:25 Q. Did I read that correctly?		
	192:01		
	192:02 A. That's what he wrote there,		
	192:03 yes.		
	192:04 Q. Did you see this e-mail prior		
	192:05 to your deposition, Mr. Rust?		
	192:06 A. Yes.		
	192:07 Q. Who is John Rust?		
	192:08 A. That is my brother. He lived		
	192:09 out in New York for 11, 12 -- 10, 12 years.		
	192:10 He's very big on cage -- he thinks birds		
	192:11 should be cage free. He's not one of them,		
	192:12 but he always feels that we should -- we		
	192:13 built the cage, we should put as many		

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DESIGNATION	SOURCE	DURATION	ID
192:14	chickens in it as possible and not worry		
192:15	about what it does to the chicken. He's very		
192:16	capitalistic and he thinks we should charge		
192:17	all we can for the cage free and produce all		
192:18	in a cage as much as we can.		
192:19	I want to keep the right to		
192:20	have chickens in the cages, because it's the		
192:21	best way to keep the chickens and keep it		
192:22	healthy and keep the consumer -- keep the egg		
192:23	healthy for the consumer. Any time you let		
192:24	chickens run free, you they can eat their own		
192:25	feces. You don't control the diet. When you		
193:01			
193:02	don't control the diet, you can't control the		
193:03	actual -- what's in that egg. You can get a		
193:04	lot more bacteria from free range eggs than		
193:05	you can from caged eggs. Multiple years ago,		
193:06	we got into a salmonella issue. That was,		
193:07	you know, when something like that happens,		
193:08	you don't want to go backwards on sanitary		
193:09	conditions going to cage -- cage free birds		
193:10	are not as sanitary as caged birds.		
193:11	Q. What was John Rust's position		
193:12	at Rose Acre in 2008 when this e-mail was		
193:13	sent?		
193:14	A. He was -- he done -- he would		
193:15	be doing -- at that time he was doing farm		
193:16	reports. He'd go around to the farms and		
193:17	look at them once every six months or so and		
193:18	if he saw something, he'd take pictures of		
193:19	it. He sent me some pictures of the cage		
193:20	free birds and how they're all running around		
193:21	looking happy.		
193:22	Q. Is he your big brother or		
193:23	little brother?		
193:24	A. Little brother. He was an art		
193:25	student. He designs all of our egg cartons,		
194:01			
194:02	or he did at one time.		
194:03	Q. How long has he been in the egg		
194:04	business?		

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DESIGNATION	SOURCE	DURATION	ID
	194:05 A. Probably for the last 10 or 15		
	194:06 years. Prior to that, he spent a lot of time		
	194:07 in New York.		
	194:08 Q. Does he still work for Rose		
	194:09 Acre?		
	194:10 A. Yes.		
	194:11 Q. What's his current position?		
	194:12 A. He still does -- he don't do		
	194:13 the farm walk, he had to have a hip replaced.		
	194:14 He's down in Seymour, I'm up north. I'm not		
	194:15 100 percent sure what he does on a daily		
	194:16 basis. I know he opens the mail, I think he		
	194:17 reads the mail. Trades the stock. I'm not		
	194:18 sure 100 percent what he does.		
	194:19 Q. Does he have -- he doesn't have		
	194:20 an official title, then, at Rose Acre?		
	194:21 A. Not any management activities,		
	194:22 no. He's an owner.		
	194:23 Q. I'm sorry, go ahead.		
	194:24 A. He's an owner.		
	194:25 Q. He's an owner?		
	195:01		
	195:02 A. Yes.		
208:17 - 209:23	<b>Rust, Marcus 2014-03-07</b>	00:01:29	Rust_03-07-14.24
	208:17 Q. As you're sitting here, can you		
	208:18 remember any of the acquisitions Rose Acre,		
	208:19 any companies Rose Acre acquired between 2002		
	208:20 and 2008?		
	208:21 A. I can't remember the exact		
	208:22 dates, but I can tell you the names of the		
	208:23 companies that we've bought through the		
	208:24 years.		
	208:25 Q. Please.		
	209:01		
	209:02 A. We've bought -- in Missouri, we		
	209:03 bought Johnson County Egg Farm which was an		
	209:04 egg farm of out of a bankruptcy court in Knob		
	209:05 Noster, Missouri. We bought Lincoln County		
	209:06 Egg Farm, we purchased that from the Schnucks		
	209:07 grocery chain family. It was -- Schnucks		

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DESIGNATION	SOURCE	DURATION	ID
	209:08 grocery chain owned their own egg farm and		
	209:09 they wanted to get out of the egg business so		
	209:10 we bought their farm and then still supply		
	209:11 them eggs today. And then we purchased		
	209:12 the -- we have the Germantown Egg Farm which		
	209:13 was in Germantown, Illinois. We have the		
	209:14 County Line Egg Farm that we purchased which		
	209:15 was in Frankfort, Indiana. We have the		
	209:16 Donovan Egg Farm which we purchased which is		
	209:17 in Donovan, Illinois. And we have the Oconee		
	209:18 Egg Farm which is a farm that we bought from		
	209:19 Johnny Jacobs, that we have in Georgia. We		
	209:20 have the Canon Egg Farm that we bought in		
	209:21 Georgia. And that is, the best of my		
	209:22 recollection, all the egg farms that we		
	209:23 bought.		
210:23 - 212:13	<b>Rust, Marcus 2014-03-07</b>	00:01:44	Rust_03-07-14.25
	210:23 Q. Now, earlier today you said		
	210:24 that prior to becoming a member of the UEP		
	210:25 Certified Program, you had chickens and eggs		
	211:01		
	211:02 were given cage space of 45, 48 and		
	211:03 53 inches. Is that right?		
	211:04 A. Yes.		
	211:05 Q. Why did you have -- give		
	211:06 chickens those particular spaces?		
	211:07 A. Economic reasons at given		
	211:08 times. The design -- some cages -- we had		
	211:09 cages that was 12-inches-by-24-inches which		
	211:10 the concept at the time allowed -- everything		
	211:11 was about given them feed truck space. And		
	211:12 then when I say it was 20 -- did I say		
	211:13 24-by-20 or 24-by-12?		
	211:14 Q. I think 12-by-12.		
	211:15 A. That was what was called a		
	211:16 reverse cage. And in a reverse cage, it was		
	211:17 very narrow and chickens don't do well in		
	211:18 those, or didn't do well, and we ended up, we		
	211:19 had a lot of mortality in that design. It		
	211:20 was designed at 45 inches. And we ended up		

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DESIGNATION	SOURCE	DURATION	ID
	211:21 from a mortality standpoint, you really		
	211:22 couldn't put that many chickens in that		
	211:23 little of a cage. You know, it's --		
	211:24 Q. So what did you do with those		
	211:25 cages?		
	212:01		
	212:02 A. Huh?		
	212:03 Q. So what did you do with those		
	212:04 cages?		
	212:05 A. We kept -- we were actually --		
	212:06 we kept putting chickens in them.		
	212:07 Q. Did you put the same number in		
	212:08 them?		
	212:09 A. Through the years?		
	212:10 Q. Uh-huh.		
	212:11 A. Yeah. Until we tore them out		
	212:12 and then we added more chickens in the same		
	212:13 house.		
263:24 - 264:25	<b>Rust, Marcus 2014-03-07</b>	00:00:53	Rust_03-07-14.26
	263:24 Earlier today Mr. Allen spoke		
	263:25 to you about some of the committees you were		
	264:01		
	264:02 on while you were at -- during the time		
	264:03 you've been a part of UEP. Do you recall		
	264:04 that discussion?		
	264:05 A. Yes.		
	264:06 Q. Were you a member of the Price		
	264:07 Discovery Committee?		
	264:08 A. Yeah.		
	264:09 Q. Do you remember how long you		
	264:10 were a member, for what period, over what --		
	264:11 MR. BARNES: Over what period of		
	264:12 time were you a member?		
	264:13 MR. SCHIRMER: Thank you.		
	264:14 THE WITNESS: I can answer that.		
	264:15 BY MR. SCHIRMER:		
	264:16 Q. Yes, please.		
	264:17 MR. BARNES: Go ahead.		
	264:18 THE WITNESS: I was on it from,		
	264:19 the best of my recollection, from		

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DESIGNATION	SOURCE	DURATION	ID
	264:20 about when it started or when we		
	264:21 joined UEP till maybe it ended. I		
	264:22 might have got off before that a		
	264:23 couple years, I'm not sure. But I was		
	264:24 on it -- I think I was on it most of		
	264:25 the time.		
265:23 - 266:11	<b>Rust, Marcus 2014-03-07</b>	00:00:38	Rust_03-07-14.27
	265:23 Q. Now, what did the Price		
	265:24 Discovery Committee do? What was its		
	265:25 purpose?		
	266:01		
	266:02 A. They would have a meeting, they		
	266:03 would sit around and talk about the		
	266:04 projections that the different people in the		
	266:05 egg industry had accumulated.		
	266:06 Q. Is that the Marketing Committee		
	266:07 or the Price Discovery Committee?		
	266:08 A. They're both the same thing.		
	266:09 Q. So it was one committee, just		
	266:10 two different names?		
	266:11 A. I think there's only one.		
269:25 - 270:05	<b>Rust, Marcus 2014-03-07</b>	00:00:09	Rust_03-07-14.28
	269:25 Q. Would you, please, go back to		
	270:01		
	270:02 Exhibit 30 for just a minute?		
	270:03 A. Exhibit, which one?		
	270:04 Q. 30. That was this document,		
	270:05 the interview.		
270:06 - 270:07	<b>Rust, Marcus 2014-03-07</b>	00:00:02	Rust_03-07-14.29
	270:06 A. Okay.		
	270:07 Q. The first one, okay. On the		
270:08 - 271:12	<b>Rust, Marcus 2014-03-07</b>	00:01:21	Rust_03-07-14.30
	270:08 right-hand side of RA0069761, about halfway		
	270:09 down the page, there is a question that says,		
	270:10 "El: What changes do you see as a result of		
	270:11 higher feed cost?"		
	270:12 Do you see that question on the		
	270:13 page?		
	270:14 A. Yes.		



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DESIGNATION	SOURCE	DURATION	ID
	270:15 Q. At the end of that paragraph, 270:16 it has after that, "MR." 270:17 A. Right. 270:18 Q. And in the last sentence, it 270:19 says, "It is evident that we also have to 270:20 control the supply of eggs since 270:21 over-production inevitably results in a drop 270:22 in realization." 270:23 Do you recall giving that 270:24 answer, at least that part of the answer to 270:25 that question, sir? 271:01 271:02 A. I don't recall that. I 271:03 remember -- I guess I remember reading this 271:04 or seeing this again. 271:05 Q. You recall reading this or 271:06 seeing this, did you not say that? 271:07 A. No, I'm not denying I said or 271:08 didn't say that. I'm just saying I remember 271:09 doing an interview for this report, I guess. 271:10 Q. Does that -- did that statement 271:11 accurately reflect your view at the time? 271:12 A. Still the same today.		
309:13 - 310:22	<b>Rust, Marcus 2014-03-07</b>	00:01:20	Rust_03-07-14.31
 569.1.3	309:13 Q. I'm showing you what has been 309:14 marked as Exhibit 46, bears Bates number 309:15 NL 0023831. What is it? 309:16 A. It looks to be an e-mail. 309:17 Q. From whom to whom? 309:18 A. Looks like from me. 309:19 Q. You send it to Chad Gregory, 309:20 Ron Truex and others? 309:21 A. Yes. 309:22 Q. Who is Ron Truex? 309:23 A. Ron Truex is with Creighton 309:24 Brothers. 309:25 Q. How about Jim Hull? 310:01 310:02 A. He was with a breaking division 310:03 of Cal-Maine Foods, American Egg Products.		
 569.1.1			

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DESIGNATION	SOURCE	DURATION	ID
	310:04 Actually it's a separate company, I think, at		
	310:05 the time.		
	310:06 Q. Roger Deffner?		
	310:07 A. National Foods.		
	310:08 Q. Gordon Saturn -- Satrum,		
	310:09 S-A-T-R-U-M.		
	310:10 A. Satrum Farms in Oregon or		
	310:11 Washington. One of the two.		
	310:12 Q. Who is Doug Wicker?		
	310:13 A. With Ise Farms.		
	310:14 COURT REPORTER: I'm sorry?		
	310:15 THE WITNESS: Ise, South		
	310:16 Carolina.		
	310:17 BY MR. SCHIRMER:		
	310:18 Q. And Craig Willardson is from?		
	310:19 A. Moark. Wilcox was from Wilcox		
	310:20 Farms.		
	310:21 Q. Do you recall writing this		
	310:22 e-mail?		
310:23 - 310:24	<b>Rust, Marcus 2014-03-07</b>	00:00:05	Rust_03-07-14.32
	310:23 A. I have to read it first.		
	310:24 Q. Why don't you read it?		
310:25 - 311:22	<b>Rust, Marcus 2014-03-07</b>	00:00:48	Rust_03-07-14.33
	310:25 A. [Reviewing document.] Yes.		
	311:01		
	311:02 Q. Do you recall what this was		
	311:03 about?		
	311:04 A. Yes.		
	311:05 Q. What was it about, sir?		
	311:06 A. It was about what we called the		
	311:07 100 percent rule.		
 569.1.2	311:08 Q. And it said in the third line		
	311:09 down. It's not really the third sentence, I		
	311:10 don't think. It says, "...if the present		
	311:11 motion before the board passes it will lead		
	311:12 to purely folks offering whatever is cheapest		
	311:13 and will force sellers into big city markets		
	311:14 to go get side deals with producers for lower		
	311:15 cost not in program eggs..."		
	311:16 A. Yes.		

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DESIGNATION	SOURCE	DURATION	ID
	311:17 Q. What does that mean?		
	311:18 A. There was producers who, to get		
	311:19 advantage of what the big chains wanted, you		
	311:20 know, which -- you know, under the FMI group,		
	311:21 they wanted people in the Animal Care		
	311:22 Program. ....		
312:06 - 313:18	<b>Rust, Marcus 2014-03-07</b>	00:01:52	Rust_03-07-14.34
	312:06 ..... There were		
	312:07 producers who were -- had one farm under the		
	312:08 UEP program and selling to Wal-Mart, and		
	312:09 there was other -- and they had other		
	312:10 facilities that were selling eggs to the		
	312:11 inner city markets at the lesser cost. Doing		
	312:12 both productions, methods of production there		
	312:13 were some gerrymander ownership rules.		
	312:14 Q. Now, when you say "lower cost,"		
	312:15 what do you mean by "lower cost" there?		
	312:16 A. How do you mean?		
	312:17 Q. Well, you say, "...producers		
	312:18 for lower cost not in the program eggs..."		
	312:19 What does that mean?		
	312:20 A. If -- anyone who puts chickens		
	312:21 at 45 or 50 or 53 inches has lower cost per		
	312:22 dozen than a producer does at 67 inches per		
	312:23 bird. That's why the supermarket chains		
	312:24 agreed to come in and pay more money to		
	312:25 people initially to start the program so we		
	313:01		
 Clear	313:02 could build more space.		
	313:03 Q. So if everyone operates under		
	313:04 the same rules, they have, at least with		
	313:05 regard to that aspect of the cost, have		
	313:06 similar cost structures?		
	313:07 A. Well, you had multiple		
	313:08 producers producing for multiple markets.		
	313:09 You had McDonald's out there, they're one of		
	313:10 the largest egg buyers in the United States,		
	313:11 they were buying eggs on a cost plus		
	313:12 production basis for, say, 80 inches of bird.		
	313:13 You had Burger King coming in buying all		

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DESIGNATION	SOURCE	DURATION	ID
	313:14 their eggs on a cost formula based on		
	313:15 85 square inches per bird or whatever it was,		
	313:16 and pricing those eggs that way. You had		
	313:17 other restaurant chains that come in and		
	313:18 wanted theirs a different way yet. ....		
313:22 - 313:24	<b>Rust, Marcus 2014-03-07</b>	00:00:07	Rust_03-07-14.35
	313:22 ..... The only thing they cared about		
	313:23 was price. They didn't care about any of the		
	313:24 animal welfare issues.		
314:06 - 315:11	<b>Rust, Marcus 2014-03-07</b>	00:01:15	Rust_03-07-14.36
	314:06 Q. As I understand your answer to		
	314:07 a previous question, what you're saying is		
	314:08 whoever can produce eggs and essentially put		
	314:09 more chickens into --		
	314:10 A. Between the cost to produce		
	314:11 between an 85-inch bird and a 50-inch bird		
	314:12 may be some were different producers,		
	314:13 different cages. Somewhere between maybe 4		
	314:14 cents a dozen and 10 cents a dozen or 12		
	314:15 cents a dozen.		
	314:16 Q. So there's a difference between		
	314:17 those two, the 45 --		
	314:18 A. There's a difference, your		
	314:19 capital investment per bird. Your capital		
	314:20 investment per bird at 67 inches is much		
	314:21 different than your capital investment -- if		
	314:22 you take \$10 and divide it by six chickens,		
	314:23 you're going to have one number. If you		
	314:24 divide it by four chickens, you're going to		
	314:25 have another number.		
	315:01		
	315:02 Q. And so when everybody is on a		
	315:03 level playing field so to speak --		
	315:04 A. If everyone is on a laying --		
	315:05 level playing field, which is what the		
	315:06 supermarket industry wanted, they wanted a		
	315:07 competitive bidding process from all of us		
	315:08 producers. They didn't want everyone on		
	315:09 different things because they wanted to have		
	315:10 one set of specs that everyone was producing		


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DESIGNATION	SOURCE	DURATION	ID
	315:11 for.		
343:17 - 345:11	<b>Rust, Marcus 2014-03-07</b>	00:01:41	Rust_03-07-14.37
343:17	Q. I assume that Rose Acre had to		
343:18	pay dues for UEP membership?		
343:19	A. You pay an annual fee that's		
343:20	based on so much a bird, per dozen you		
343:21	produce. I forget which.		
343:22	Q. Do you recall at the time you		
343:23	joined how much your dues were for each year?		
343:24	A. I don't recall. It was quite		
343:25	expensive, though.		
344:01			
344:02	Q. What dimension, hundreds of		
344:03	thousands?		
344:04	A. No. I think those costs are		
344:05	\$70 to \$100,000 a year maybe. Something like		
344:06	that.		
344:07	Q. It stayed around that same		
344:08	level throughout the period to 2008?		
344:09	A. I don't think they're -- they		
344:10	haven't changed that base rate. When you		
344:11	join the Animal Welfare Program, then you		
344:12	have to pay higher dues for that.		
344:13	Q. How much was that for you?		
344:14	A. I don't -- I want to say so		
344:15	much a case or so much a hen. They had a fee		
344:16	that's considered -- they had a PR campaign		
344:17	and that made it cost more.		
344:18	Q. Do you recall how much you paid		
344:19	each year for that part of it, the certified		
344:20	dues?		
344:21	A. I don't recall exact numbers,		
344:22	but it could be a half million,		
344:23	three-quarters of a million dollars. I could		
344:24	be wrong, but I think it was a considerable		
344:25	amount of money for that.		
345:01			
345:02	Q. What was your understanding of		
345:03	what that money was used for by UEP?		
345:04	A. Well, they hired a PR firm by		

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DESIGNATION	SOURCE	DURATION	ID
	345:05 the name of GolinHarris in New York, and did		
	345:06 PR efforts on the Animal Care Program.		
	345:07 Q. Did Rose Acre participate in		
	345:08 that program in some way, the PR program?		
	345:09 A. Yes.		
	345:10 Q. What did you do?		
	345:11 A. We contributed money to that.		
372:08 - 373:20	<b>Rust, Marcus 2014-03-07</b>	00:01:38	Rust_03-07-14.38
 720.1.1	372:08 Mr. Rust, Exhibit 51, the Rose		
	372:09 Acre Farms -- "A Membership Opportunity		
	372:10 Presented By UEP and MIDWEST UEP To ROSE ACRE		
	372:11 FARMS," I don't see a date on it. Do you		
	372:12 know when this -- when you were given this?		
	372:13 A. Sometime. They created -- they		
	372:14 put lots of stuff in, you know, trying to get		
	372:15 us to join. And we just -- you know, we had		
	372:16 an issue.		
 720.2	372:17 Q. The second paragraph on page 2		
	372:18 says, "Our...," and this is UEP saying, "Our		
 720.2.1	372:19 objective is to serve the membership in the		
	372:20 area of government relations, marketing,		
	372:21 member service programs and communications."		
	372:22 Do you recall Mr. Gregory		
	372:23 saying to you what services would be -- could		
	372:24 be offered for marketing to Rose Acre?		
	372:25 A. They just talked about how they		
	373:01		
	373:02 gave suggested different -- you know, they		
	373:03 would study different -- you know, they took		
	373:04 a lot of USDA numbers and would give		
	373:05 projections off of those to their members to		
	373:06 do voluntary things. That was one of the		
	373:07 things they always promoted.		
	373:08 Q. So did he talk to you, then,		
	373:09 about possible efforts to reduce the supply		
	373:10 of eggs if prices were low?		
	373:11 A. Never to say that. What they		
	373:12 talked about always was how each -- it would		
	373:13 affect each producer because there was always		
	373:14 different producers that for some reasons		

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DESIGNATION	SOURCE	DURATION	ID
	373:15 they would molt or not molt.		
	373:16 Q. Mr. Gregory's point was that if		
	373:17 you joined the membership, the membership		
	373:18 could be more effective in that respect than		
	373:19 on your own?		
	373:20 A. They would provide information --		
373:22 - 374:19	<b>Rust, Marcus 2014-03-07</b>	00:00:39	Rust_03-07-14.39
	373:22 THE WITNESS: They would provide		
	373:23 information that may be of benefit for		
	373:24 people to make the proper decisions		
	373:25 that they needed for their business.		
	374:01		
	374:02 BY MR. MALYSIAK:		
 720.2.2	374:03 Q. The first bullet point further		
	374:04 down that page says, "Offered voluntarily		
	374:05 supply/demand and price discovery programs."		
	374:06 Do you recall Mr. Gregory saying anything		
	374:07 specific about that?		
	374:08 A. Not specifically. Talked about		
	374:09 it, but, you know, the specifics about it, I		
	374:10 don't remember the detail.		
	374:11 Q. He put that number one, though,		
	374:12 in his list, didn't he?		
	374:13 A. Yes.		
	374:14 Q. Did he particularly emphasize		
	374:15 that?		
	374:16 A. They always emphasize that.		
	374:17 They had -- they had been -- you know, what		
	374:18 they -- UEP has been around for 25 years		
	374:19 doing the same thing.		

Plaintiff Designations	00:27:19
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Defense Counters	00:01:25
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<b>TOTAL RUN TIME</b>	<b>00:28:44</b>
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Documents linked to video:

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364



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720